

MIAMI BEACH

City Commission Meeting SUPPLEMENTAL MATERIAL 2

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
October 14, 2015

Mayor Philip Levine
Vice-Mayor Edward L. Tobin
Commissioner Michael Grieco
Commissioner Joy Malakoff
Commissioner Micky Steinberg
Commissioner Deede Weithorn
Commissioner Jonah Wolfson

City Manager Jimmy L. Morales
City Attorney Raul J. Aguila
City Clerk Rafael E. Granado

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

SUPPLEMENTAL AGENDA

C2 - Competitive Bid Reports

- C2D Request For Approval To Issue A Request For Proposals (RFP) No. 2016-009-ME To Seek Proposals From Parties Interested In Partnering With The City Of Miami Beach, Florida, To Develop Public Parking Garages Within The City.
(Procurement/Parking/Tourism, Culture & Development)
(Memorandum)

R5 - Ordinances

- R5E An Ordinance Amending Chapter 106 Of The Miami Beach City Code, Entitled "Traffic And Vehicles," By Amending Article II, Entitled "Metered Parking," By Amending Division 1, Entitled "Generally," By Amending Section 106-47, Entitled "Freight, Commercial, And Passenger Curb Loading Zones; Hours, Deliveries"; By Deleting Subsection (c), (d) And (e); By Amending Subsection (b) To Require Property Owners And Businesses To Confirm Compliance With Subsection (g) For Commercial Motor Vehicles Deliveries And Services; By Prohibiting Deliveries Or Services For Commercial Motor Vehicles That Fail To Comply With Subsections (f) Through (n); By Creating A New Subsection (d) And (e), Which Limits The Authority Of The Special Master; By Amending The Enforcement And Penalty Provisions For Violations Of Subsection (b); Providing For Codification, Repealer, Severability, And An Effective Date. **10:20 a.m. Second Reading Public Hearing**

(Sponsored by Commissioner Michael Grieco)
(Legislative Tracking: Office of the City Attorney)
(First Reading on September 2, 2015 - R5O)
(Ordinance)

- R5L Consolidation And Standardizing Of Notification Procedures Ordinance And Rehearing And Appeal Procedures Ordinance

1. An Ordinance Creating Section 118-8 Entitled "Notice Procedures" At Chapter 118, "Administration And Review Procedures," In Order To Consolidate And Standardize The Notice Provisions From The Various Subsections Of The Land Development Code In One Section; Amending And/Or Striking The Various Notice Provisions From Article II "Boards," Division 5 "Board Of Adjustment" At Section 118-134; Article IV "Conditional Use Procedure" At Section 118-193; Article VI "Design Review Procedures" At Section 118-254; Article X "Historic Preservation" Division 3 "Issuance Of Certificate Of Appropriateness/Certificate To Dig/Certificate Of Appropriateness For Demolition" At Section 118-563; And Division 4 "Designation" At Section 118-591; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading**

(Sponsored by Commissioner Deede Weithorn)
(Legislative Tracking: Planning)

2. An Ordinance Consolidating And Standardizing The Rehearing And Appeal Procedures, Including Administrative Appeals And Quasi-Judicial Applications Before Historic Preservation Board, Board Of Adjustment, Planning Board, And Design Review Board, By Amending The Following Sections: Chapter 118, "Administration And Review Procedures," At Section 118-9, Entitled "Appeal And Rehearing Procedures"; And Amending Article II "Boards" Division 3 "Design Review Board" At Section 118-71; Division 5 "Board Of Adjustment" At Sections 118-134, 118-136, 118-137, 118-138; Article IV "Conditional Use Procedure" At Sections 118-193, And 118-197; Article VI "Design Review Procedures" At Sections 118-258, 118-260, 118-261, 118-262, 118-263; Article VIII "Procedures For Variances And Administrative Appeals" At Sections 118-352 And 118-358; Article IX "Nonconformances" At Sections 118-395 And 118-397; Article X "Historic Preservation"; Division 2 "Historic Preservation Board Review Of Projects" At Sections 118-532, 118-536, And 118-537; Division 3 "Issuance Of Certificate Of Appropriateness/Certificate To Dig/Certificate Of Appropriateness For Demolition" At Sections 118-563, 118-564, 118-565; Division 5 "Single-Family Ad Valorem Tax Exemption" At Section 118-609; Chapter 142, "Zoning Districts And Regulations" At Article II "District Regulations," Division 2 "RS-1, RS-2, RS-3, RS-4 Single Family Residential Districts At Section 142-108 In Order To Remove Any Conflicts With Newly Created Section 118-9; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading**

(Sponsored by Commissioner Deede Weithorn)
(Legislative Tracking: Planning)
(Memorandum & Ordinances)

- R5O An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 5 Entitled "Campaign Finance Reform," By Adding Thereto Section 2-491 Entitled "Disclosure Of Solicitation," Requiring Any Candidate Or Campaign Committee Of A Candidate For The Offices Of Mayor Or Commissioner Or Member Of The City Commission Who, On Behalf Of A Political Committee Which Supports Or Opposes Candidates For Elected City Office, Solicits Campaign Contributions For City Elected Office From A Vendor, Lobbyist On A Procurement Issue, Real Estate Developer And/Or Lobbyist On A Real Estate Development Issue, To Disclose The Date Of Solicitation As Well As Name And Contribution Amounts Of Any Individual Who Was Solicited, Disclosure To Be Filed In City Clerk's Office. **First Reading**

(Sponsored By Commissioner Deede Weithorn)

(Legislative Tracking: Office of the City Attorney)

(Memorandum & Ordinance)

- R5P An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 5 Entitled "Campaign Finance Reform," By Adding Thereto Section 2-491 Entitled "Prohibited Lobbying By Campaign Consultants," Prohibiting Campaign Consultants And Certain Affiliated Persons Or Entities From Lobbying City Commission For 12 Months Subsequent To Swearing In Of Subject Elected Official(s), Establishing Definitions, And Limited Exemption; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**

(Sponsored By Commissioner Deede Weithorn)

(Legislative Tracking: Office of the City Attorney)

(Memorandum & Ordinance)

R7 - Resolutions

- R7L A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Firms, Pursuant To Request For Qualifications (RFQ) No. 2015-213-KB For The Preparation Of Environmental Analysis For Miami Beach Transit Projects Including The Beach Corridor Transit Connection Project And Related Services, Authorizing The Administration To Enter Into Negotiations With Kimley-Horn And Associates, Inc., As The Top Ranked Proposer; And Should The Administration Not Be Successful In Negotiating An Agreement With Kimley-Horn And Associates, Inc., Authorizing The Administration To Enter Into Negotiations With Parsons Brinckerhoff, Inc., As The Second Highest Ranked Proposer; And Should The Administration Not Be Successful In Negotiating An Agreement With Parsons Brinckerhoff, Inc., Authorizing The Administration To Enter Into Negotiations With HNTB Corporation, As The Third Highest Ranked Proposer; And Further Authorizing The Mayor And City Clerk To Execute An Agreement, Upon Conclusion Of Successful Negotiations By The Administration.

(Procurement/Transportation)

(Memorandum & Resolution)

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Condensed Title:

REQUEST FOR APPROVAL TO ISSUE A REQUEST FOR PROPOSALS (RFP) NO. 2016-009-ME TO SEEK PROPOSALS FROM PARTIES INTERESTED IN PARTNERING WITH THE CITY OF MIAMI BEACH, FLORIDA, TO DEVELOP PUBLIC PARKING GARAGES WITHIN THE CITY

Key Intended Outcome Supported:**Supporting Data (Surveys, Environmental Scan, etc.):****Item Summary/Recommendation:**

At the April 29, 2015 City Commission meeting, there was a discussion following the Washington Avenue Blue Ribbon Panel presentation and recommendations. The discussion included issuance of an RFP to property owners between 9th and 13th streets to purchase air rights for the construction of a municipal garage above existing ground floor retail. With the completion of the Walker Parking Study several other areas were identified as high priority locations in need of a municipal parking garage and they have been included in this RFP.

Through this RFP, the City is seeking proposals for public/private partnerships to develop public parking garages City-wide (each proposed site, a proposed "Project") to address the shortage of parking City-wide, with an emphasis on the "High Demand" areas set forth in Section 2B below and as identified more fully in the Walker Parking Consultant Demand Analysis (see Link to the Walker Study and related reports in Section 2D below). Accordingly, the City is seeking development teams with proven experience in the development of similar facilities or Projects, and the financial and professional qualifications to deliver high-quality, economically feasible Project(s).

Proposals must include privately-owned property owned or controlled by the Proposer. In addition, the City has identified certain City-owned parcels listed in Section 2C below, for the potential development of Projects as identified herein. As set forth more fully below, the City will also consider proposals for the development of a Proposer's property together with development of an adjacent City-owned parcel listed in Section 2C, for the purpose of maximizing the lot sizes available for the development of public parking spaces as part of a proposed Project. City reserves the right to award more than one contract for separate Projects arising out of this RFP. Based on the above, the City is seeking qualified development teams to submit proposals to develop Projects involving:

- 1) the development of privately-owned property that is not adjacent to any City-owned property (including, without limitation, development of air rights over privately owned property), with City to own/operate the public parking garage components and the successful Proposer to own/operate other components of the Project (which may include, without limitation, retail, commercial or other uses); or
- 2) the development of privately-owned property together with development of adjacent City-owned property listed in Section 2C (including, without limitation, development of air rights over privately owned property), with City to own/operate the public parking garage components and the successful Proposer to own/operate other components of the Project (which may include, without limitation, retail, commercial or other uses).

The subject RFP is attached.

RECOMMENDATION

To seek proposals from interested parties, the City Manager recommends that the Mayor and City Commission of the City of Miami Beach, Florida authorize the issuance of RFP 2016-009-ME To Seek Proposals From Parties Interested In Partnering With The City Of Miami Beach, Florida, To Develop Public Parking Garages Within The City

Advisory Board Recommendation:**Financial Information:**

Source of Funds:		Amount	Account	Approved
	1	N/A	N/A	N/A
	2			
	Total			

Financial Impact Summary: The design phase portion of this project will not utilize grant funding.

City Clerk's Office Legislative Tracking:

Alex Denis, Saul Frances

Sign-Offs:

Department Director	Assistant City Manager	City Manager
AD SF MS	KGB MT	JLM

T:\AGENDA\2015\September\PROCUREMENT\RFPQ 2015-245-KB A&E Lincoln Road - Issuance Summary.doc

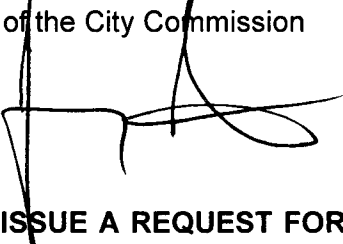


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City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager 

DATE: October 14, 2015

SUBJECT: **REQUEST FOR APPROVAL TO ISSUE A REQUEST FOR PROPOSALS (RFP) NO. 2016-009-ME TO SEEK PROPOSALS FROM PARTIES INTERESTED IN PARTNERING WITH THE CITY OF MIAMI BEACH, FLORIDA, TO DEVELOP PUBLIC PARKING GARAGES WITHIN THE CITY**

ADMINISTRATION RECOMMENDATION

Authorize the issuance of the RFQ.

BACKGROUND

At the April 29, 2015 City Commission meeting, there was a discussion following the Washington Avenue Blue Ribbon Panel presentation and recommendations. The discussion included issuance of an RFP to property owners between 9th and 13th streets to purchase air rights for the construction of a municipal garage above existing ground floor retail. With the completion of the Walker Parking Study several other areas were identified as high priority locations in need of a municipal parking garage and they have been included in this RFP.

Through this RFP, the City is seeking proposals for public/private partnerships to develop public parking garages City-wide (each proposed site, a proposed "Project") to address the shortage of parking City-wide, with an emphasis on the "High Demand" areas set forth in Section 2B below and as identified more fully in the Walker Parking Consultant Demand Analysis (see Link to the Walker Study and related reports in Section 2D below). Accordingly, the City is seeking development teams with proven experience in the development of similar facilities or Projects, and the financial and professional qualifications to deliver high-quality, economically feasible Project(s).

Proposals must include privately-owned property owned or controlled by the Proposer. In addition, the City has identified certain City-owned parcels listed in Section 2C below, for the potential development of Projects as identified herein. As set forth more fully below, the City will also consider proposals for the development of a Proposer's property together with development of an adjacent City-owned parcel listed in Section 2C, for the purpose of maximizing the lot sizes available for the development of public parking spaces as part of a proposed Project. City reserves the right to award more than one contract for separate Projects arising out of this RFP. Based on the above, the City is seeking qualified development teams to submit proposals to develop Projects involving:

- 1) the development of privately-owned property that is not adjacent to any City-owned property (including, without limitation, development of air rights over privately owned property), with City to own/operate the public parking garage components and the successful Proposer to own/operate other components of the Project (which may include, without limitation, retail, commercial or other uses); or

2) the development of privately-owned property together with development of adjacent City-owned property listed in Section 2C (including, without limitation, development of air rights over privately owned property), with City to own/operate the public parking garage components and the successful Proposer to own/operate other components of the Project (which may include, without limitation, retail, commercial or other uses).

The subject RFP is attached.

A. MINIMUM QUALIFICATIONS. The following minimum requirements shall apply for each proposed Project ("Minimum Project Requirements"):

1. The successful Proposer(s) will be responsible for the design and construction of the Project, with the City paying for its portion of the public parking components.
2. Once the design and construction of the Project is complete, the City shall retain all rights for the public parking components of the Project, which the City shall operate as part of its Parking System for municipal parking purposes at City's municipal parking rates.
3. The site for a proposed Project must be of a lot size sufficient to accommodate a "self-parking" public garage facility. City will not consider mechanical or robotic garage structures or spaces designed solely for valet use.
4. The City shall not provide any development waivers under the City's Land Development Regulations; a proposed Project must comply with (and be based on) all current City Code zoning requirements in effect as of the Proposal Due Date.
5. The successful Proposer shall be responsible for all costs and expenses for the design, construction, financing and operation of the non-public components of the Project (i.e. which may include all ad valorem and other costs or expenses attributable to the retail, commercial or other components of each Project).
6. On the Proposal Response Date, Proposers must be able to demonstrate ownership and/or control of any privately-owned property included as part of a proposed Project.

SUBMITTAL REQUIREMENTS. Please Reference Section 0315, Request For Proposals (RFP) NO. 2016-009-ME To Seek Proposals From Parties Interested In Partnering With The City Of Miami Beach, Florida, To Develop Public Parking Garages Within The City (attached), beginning on page 21 of the attached RFP.

CRITERIA FOR EVALUATION. Please Reference Section 0305, Request For Proposals (RFP) NO. 2016-009-ME To Seek Proposals From Parties Interested In Partnering With The City Of Miami Beach, Florida, To Develop Public Parking Garages Within The City (attached), beginning on page 19 of the attached RFP.

CONCLUSION

The City Manager recommends that the Mayor and Commission authorize the issuance of the RFQ for Architectural and Engineering Design Services for the Lincoln Road District Improvements is subject to funds availability approved through the City's budgeting process

ATTACHMENTS

Attachment A: RFP 2016-009-ME To Seek Proposals From Parties Interested In Partnering With The City Of Miami Beach, Florida, To Develop Public Parking Garages Within The City

JLM / KGB / MS / SF / AD

T:\AGENDA\2015\October\PROCUREMENT\RFP 2016-009-ME Public Parking Partnerships - Issuance Memo.doc

REQUEST FOR PROPOSALS

TO SEEK PROPOSALS FROM PARTIES INTERESTED IN PARTNERING
WITH THE CITY TO DEVELOP PUBLIC PARKING GARAGES WITHIN THE
CITY OF MIAMI BEACH

RFP No. 2016-009-ME

RFP ISSUANCE DATE:

PRE-PROPOSAL MEETING DATE:

PROPOSAL DUE DATE:

ISSUED BY:

MIAMIBEACH

Maria Estevez, *Assistant Director*

DEPARTMENT OF PROCUREMENT MANAGEMENT

1700 Convention Center Drive, Miami Beach, FL 33139

305.673.7490 | MariaEstevez@miamibeachfl.gov

www.miamibeachfl.gov

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00100. GENERAL INSTRUCTIONS TO PROPOSERS:

1. GENERAL. This Request for Proposals (RFP) is issued by the City of Miami Beach, Florida (the "City"), as the means for prospective Proposers to submit their qualifications, proposed scopes of work and cost proposals (the "proposal") to the City for the City's consideration as an option in achieving the required scope of services and requirements as noted herein. All documents released in connection with this solicitation, including all appendixes and addenda, whether included herein or released under separate cover, comprise the solicitation, and are complementary to one another and together establish the complete terms, conditions and obligations of the Proposers and, subsequently, the successful Proposer(s) (the "contractor[s]") if this RFP results in an award.

The City utilizes **PublicPurchase** (www.publicpurchase.com) for automatic notification of competitive solicitation opportunities and document fulfillment, including the issuance of any addendum to this RFP. Any prospective Proposer who has received this RFP by any means other than through **PublicPurchase** must register immediately with **PublicPurchase** to assure it receives any addendum issued to this RFP. **Failure to receive an addendum may result in disqualification of proposal submitted.**

2. PURPOSE STATEMENT

Through this RFP, the City is seeking proposals for public/private partnerships to develop public parking garages City-wide (each proposed site, a proposed "Project") to address the shortage of parking City-wide, with an emphasis on the "High Demand" areas set forth in Section 2B below and as identified more fully in the Walker Parking Consultant Demand Analysis (see Link to the Walker Study and related reports in Section 2D below). Accordingly, the City is seeking development teams with proven experience in the development of similar facilities or Projects, and the financial and professional qualifications to deliver high-quality, economically feasible Project(s).

Proposals must include privately-owned property owned or controlled by the Proposer. In addition, the City has identified certain City-owned parcels listed in Section 2C below, for the potential development of Projects as identified herein. As set forth more fully below, the City will also consider proposals for the development of a Proposer's property together with development of an adjacent City-owned parcel listed in Section 2C, for the purpose of maximizing the lot sizes available for the development of public parking spaces as part of a proposed Project. City reserves the right to award more than one contract for separate Projects arising out of this RFP. Based on the above, the City is seeking qualified development teams to submit proposals to develop Projects involving:

- 1) the development of privately-owned property that is not adjacent to any City-owned property (including, without limitation, development of air rights over privately owned property), with City to own/operate the public parking garage components and the successful Proposer to own/operate other components of the Project (which may include, without limitation, retail, commercial or other uses); or
- 2) the development of privately-owned property together with development of adjacent City-owned property listed in Section 2C (including, without limitation, development of air rights over privately owned property), with City to own/operate the public parking garage components and the successful Proposer to own/operate other components of the Project (which may include, without limitation, retail, commercial or other uses).

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This RFP does not seek proposals submitted solely for the purpose of proposing the sale of privately-held property to the City, nor does this RFP seek proposals that intend solely to develop City-owned property. The purchase or sale of real estate is handled through the City's Division of the Tourism, Culture and Economic Development Department. Any offers or inquiries with respect to the sale of real property should be directed to Mark Milisits, Asset Manager, Department of Tourism, Culture and Economic Development, at MarkMilisits@MiamiBeachFL.gov, and shall be handled separately from this RFP.

A. Minimum Project Requirements: The following minimum requirements shall apply for each proposed Project ("Minimum Project Requirements"):

1. The successful Proposer(s) will be responsible for the design and construction of the Project, with the City paying for its portion of the public parking components.
2. Once the design and construction of the Project is complete, the City shall retain all rights for the public parking components of the Project, which the City shall operate as part of its Parking System for municipal parking purposes at City's municipal parking rates.
3. The site for a proposed Project must be of a lot size sufficient to accommodate a "self-parking" public garage facility. City will not consider mechanical or robotic garage structures or spaces designed solely for valet use.
4. The City shall not provide any development waivers under the City's Land Development Regulations; a proposed Project must comply with (and be based on) all current City Code zoning requirements in effect as of the Proposal Due Date.
5. The successful Proposer shall be responsible for all costs and expenses for the design, construction, financing and operation of the non-public components of the Project (i.e. which may include all ad valorem and other costs or expenses attributable to the retail, commercial or other components of each Project).
6. On the Proposal Response Date, Proposers must be able to demonstrate ownership and/or control of any privately-owned property included as part of a proposed Project.

In no event shall any of the Proposer's terms be inconsistent or in conflict with the Minimum Project Requirements; the failure to adhere to such requirements shall render a Proposer non-responsive.

B. Priority "High Demand" Areas:

While the City wishes to consider solutions to address parking needs City-wide, Walker has identified the areas where the most critical parking shortages exist. Projects to address the parking shortage in those areas will be given a preference in the evaluation of proposals. In summary, those areas include:

South Beach areas roughly bounded by:

1. Washington Avenue to the West; the Atlantic Ocean to the East; 23rd Street to the North; and 5th Street to the South;
2. Alton Road to the East; Biscayne Bay to the West; 17th Street to the North; and 5th Street to the South;

Middle Beach areas roughly bounded by:

1. 23rd Street to the South; 44th Street to the North; Indian Creek to the West; Collins Avenue to the East;
2. 40th Street to the South; 42nd Street to the North; Alton Road to the West; Pine Tree Drive to the East;

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North Beach areas roughly bounded by:

1. Normandy Isles (Biarritz Drive to the South, Marseilles Drive to the North; Rue Notre Dame to the West; the Intercoastal to the East);
2. North Beach Town Center (Intercoastal to the West, Collins Avenue to the East, 69th Street to the South, 73rd Street to the North)
3. North Collins Ave (Harding Avenue to the West, Collins Avenue to the East, 73rd Street to the South; 75th Street to the North)

C. City-owned Properties:

As set forth more fully below, in an effort to maximize the number of available spaces, this RFP will also give preference for proposed Projects that include use of an adjacent to City-owned property identified below and maximize the number of public parking spaces that would be increased by the combination of properties. The City will consider proposals that may include the following City-owned properties:

FOLIO NUMBER	ADDRESS	DESCRIPTION
02-3210-013-0360	917 Normandy Drive	Parking Lot (P-89)
02-3210-013-0370		
02-3210-013-0380		
02-3210-013-0400		
02-3210-013-0540	6950 Bay Drive	Parking Lot (P-87)
02-3210-013-0550		
02-3210-013-1281	1045 71 ST	Parking Lot (P-88)
02-3211-001-0200	6933 Harding Ave	Parking Lot (P-83)
02-3211-002-0080	7125 Bonita Drive	Parking Lot (P-90)
02-3211-002-0910	6964 Harding Ave	Parking Lot (P-84)
02-3211-002-1090	6977 Carlyle Ave	Parking Lot (P-85)
02-3211-002-1270	6976 Indian Creek Dr.	Parking Lot (P-86)
02-3211-002-1350		
02-3222-019-0260	4125 Jefferson Ave	Parking Lot (P-62)
02-3222-019-0270	830 42 ST	
02-3226-001-0780	2660 Collins Avenue	Parking Lot (P-55)
02-3233-017-0060	1671 West Ave	Parking Lot (P-24)
02-3233-017-0070		
02-3233-017-0080		
02-3233-017-0120	1619 West Ave	Parking Lot (P-23)
02-3234-008-1020	1262 Collins Ave	Parking Lot (P-16)
02-3234-008-1030		
02-4203-009-0200	900 Washington Ave	Parking Lot (P-12)
02-4203-009-0210		
02-4203-009-0280	1000 Washington Ave	Parking Lot (P-13)
02-4203-009-0290		
02-4204-004-0010	401 Alton Road	Parking Lot (P-5)
02-4204-004-0020		
02-4204-004-0030		
02-4204-004-0040		

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D. Background on the Walker Study

The City engaged Walker Parking Consultants, Inc. to perform a parking demand analysis for the three major geographic areas of the City (South, Middle, and North). Parking demand projections were derived from parking inventory usage, including data collection; review of current and future development projects; and, in consultation with the Administration, certain assumptions regarding economic growth, seasonality, and related trends. In addition, Walker Parking Consultant, Inc. prepared a separate supplemental report that provided recommended management strategies and parking rates; identification of areas sufficiently high to warrant new parking garages; and development of conceptual parking structure layouts in those areas. The parking demand analysis, in its entirety, as well as the supplemental report is on the City's Parking Department webpage and may be accessed at the following link: <http://web.miamibeachfl.gov/parking/scroll.aspx?id=81753>.

3. ANTICIPATED RFP TIMETABLE. The tentative schedule for this solicitation is as follows:

RFP Issued	
Pre-Proposal Meeting	
Deadline for Receipt of Questions	
Responses Due	
Evaluation Committee Review	
Proposer Presentations	
Tentative Commission Approval Authorizing Negotiations	
Contract Negotiations	Following Commission Approval

4. PROCUREMENT CONTACT. Any questions or clarifications concerning this solicitation shall be submitted to the Procurement Contact noted below:

Procurement Contact:
Maria Estevez

Telephone:
305-673-7490

Email:
MariaEstevez@MiamiBeachFL.gov

The RFP title/number shall be referenced on all correspondence. All questions or requests for clarification must be received no later than seven (7) calendar days prior to the date proposals are due as scheduled in Section 0200-3. All responses to questions/clarifications will be sent to all prospective Proposers in the form of an addendum.

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5. PRE-PROPOSAL MEETING OR SITE VISIT(S). Only if deemed necessary by the City, a pre-proposal meeting or site visit(s) may be scheduled.

A Pre-PROPOSAL conference will be held as scheduled in Anticipated RFP Timetable section above at the following address:

**City of Miami Beach
City Hall - 4th Floor
City Manager's Large Conference Room
1700 Convention Center Drive
Miami Beach, Florida 33139**

Attendance (in person or via telephone) is encouraged and recommended as a source of information, but is not mandatory. Proposers interested in participating in the Pre-Proposal Submission Meeting via telephone must follow these steps:

- (1) Dial the TELEPHONE NUMBER: 1- 888-270-9936 (Toll-free North America)
- (2) Enter the MEETING NUMBER: 1142644

Proposers who are interested in participating via telephone should send an e-mail to the contact person listed in this RFP expressing their intent to participate via telephone.

6. PRE-PROPOSAL INTERPRETATIONS. Oral information or responses to questions received by prospective Proposers are not binding on the City and will be without legal effect, including any information received at pre-submittal meeting or site visit(s). The City by means of Addenda will issue interpretations or written addenda clarifications considered necessary by the City in response to questions. Only questions answered by written addenda will be binding and may supersede terms noted in this solicitation. Addendum will be released through PublicPurchase. Any prospective proposer who has received this RFP by any means other than through PublicPurchase must register immediately with PublicPurchase to assure it receives any addendum issued to this RFP. Failure to receive an addendum may result in disqualification of proposal. Written questions should be received no later than the date outlined in the **Anticipated RFP Timetable** section.

7. CONE OF SILENCE. This RFP is subject to, and all proposers are expected to be or become familiar with, the City's Cone of Silence Requirements, as codified in Section 2-486 of the City Code. Proposers shall be solely responsible for ensuring that all applicable provisions of the City's Cone of Silence are complied with, and shall be subject to any and all sanctions, as prescribed therein, including rendering their response voidable, in the event of such non-compliance. Communications regarding this solicitation are to be submitted in writing to the Procurement Contact named herein with a copy to the City Clerk at rafaelgranado@miamibeachfl.gov

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8. SPECIAL NOTICES. You are hereby advised that this solicitation is subject to the following ordinances/resolutions, which may be found on the City Of Miami Beach website: <http://web.miamibeachfl.gov/procurement/scroll.aspx?id=23510>

• CONE OF SILENCE.....	CITY CODE SECTION 2-486
• PROTEST PROCEDURES.....	CITY CODE SECTION 2-371
• DEBARMENT PROCEEDINGS.....	CITY CODE SECTIONS 2-397 THROUGH 2-485.3
• LOBBYIST REGISTRATION AND DISCLOSURE OF FEES.....	CITY CODE SECTIONS 2-481 THROUGH 2-406
• CAMPAIGN CONTRIBUTIONS BY VENDORS.....	CITY CODE SECTION 2-487
• CAMPAIGN CONTRIBUTIONS BY LOBBYISTS ON PROCUREMENT ISSUES.....	CITY CODE SECTION 2-488
• PREFERENCE FOR FLORIDA SMALL BUSINESSES OWNED AND CONTROLLED BY VETERANS AND TO STATE-CERTIFIED SERVICE-DISABLED VETERAN BUSINESS ENTERPRISES.....	CITY CODE SECTION 2-374
• FALSE CLAIMS ORDINANCE.....	CITY CODE SECTION 70-300
• ACCEPTANCE OF GIFTS, FAVORS & SERVICES.....	CITY CODE SECTION 2-449

9. PUBLIC ENTITY CRIME. A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crimes may not submit a Proposal on a contract to provide any goods or services to a public entity, may not submit a Proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit Proposals on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in Sec. 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

10. COMPLAINE WITH THE CITY'S LOBBYIST LAWS. This RFP is subject to, and all Proposers are expected to be or become familiar with, all City lobbyist laws. Proposers shall be solely responsible for ensuring that all City lobbyist laws are complied with, and shall be subject to any and all sanctions, as prescribed therein, including, without limitation, disqualification of their responses, in the event of such non-compliance.

11. DEBARMENT ORDINANCE: This RFP is subject to, and all proposers are expected to be or become familiar with, the City's Debarment Ordinance as codified in Sections 2-397 through 2-406 of the City Code.

12. WITH THE CITY'S CAMPAIGN FINANCE REFORM LAWS. This RFP is subject to, and all Proposers are expected to be or become familiar with, the City's Campaign Finance Reform laws, as codified in Sections 2-487 through 2-490 of the City Code. Proposers shall be solely responsible for ensuring that all applicable provisions of the City's Campaign Finance Reform laws are complied with, and shall be subject to any and all sanctions, as prescribed therein, including disqualification of their responses, in the event of such non-compliance.

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13. CODE OF BUSINESS ETHICS. Pursuant to City Resolution No.2000-23879, the Proposer shall adopt a Code of Business Ethics ("Code") and submit that Code to the Procurement Division with its response or within five (5) days upon receipt of request. The Code shall, at a minimum, require the Proposer, to comply with all applicable governmental rules and regulations including, among others, the conflict of interest, lobbying and ethics provision of the City of Miami Beach and Miami Dade County.

14. AMERICAN WITH DISABILITIES ACT (ADA). Call 305-673-7490 to request material in accessible format; sign language interpreters (five (5) days in advance when possible), or information on access for persons with disabilities. For more information on ADA compliance, please call the Public Works Department, at 305-673- 7000, Extension 2984.

15. POSTPONEMENT OF DUE DATE FOR RECEIPT OF PROPOSALS. The City reserves the right to postpone the deadline for submittal of proposals and will make a reasonable effort to give at least three (3) calendar days written notice of any such postponement to all prospective Proposers through *PublicPurchase*.

16. PROTESTS. Proposers that are not selected may protest any recommendation for selection of award in accordance with the proceedings established pursuant to the City's bid protest procedures, as codified in Sections 2-370 and 2-371 of the City Code (the City's Bid Protest Ordinance). Protest not timely made pursuant to the requirements of the City's Bid Protest Ordinance shall be barred.

18. VETERAN BUSINESS ENTERPRISES PREFERENCE. Pursuant to City Code Section 2-374, the City shall give a preference to a responsive and responsible Proposer which is a small business concern owned and controlled by a veteran(s) or which is a service-disabled veteran business enterprise, and which is within five percent (5%) of the lowest responsive, responsible proposer, by providing such proposer an opportunity of providing said goods or contractual services for the lowest responsive proposal amount (or in this RFP, the highest proposal amount). Whenever, as a result of the foregoing preference, the adjusted prices of two (2) or more proposers which are a small business concern owned and controlled by a veteran(s) or a service-disabled veteran business enterprise constitute the lowest proposal pursuant to an RFP or oral or written request for quotation, and such proposals are responsive, responsible and otherwise equal with respect to quality and service, then the award shall be made to the service-disabled veteran business enterprise.

19. DETERMINATION OF AWARD. The final ranking results both evaluation phases, outlined in Section 0400, Evaluation of Proposals, will be considered by the City Manager who may recommend to the City Commission the Proposer(s) s/he deems to be in the best interest of the City or may recommend rejection of all proposals. The City Manager's recommendation need not be consistent with the scoring results identified herein and takes into consideration Miami Beach City Code Section 2-369, including the following considerations:

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- (1) The ability, capacity and skill of the Proposer to perform the contract.
- (2) Whether the Proposer can perform the contract within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the Proposer.
- (4) The quality of performance of previous contracts.
- (5) The previous and existing compliance by the Proposer with laws and ordinances relating to the contract.

The City Commission shall consider the City Manager's recommendation and may approve such recommendation. The City Commission may also, at its option, reject the City Manager's recommendation and select another Proposal or Proposals which it deems to be in the best interest of the City, or it may also reject all Proposals.

20. NEGOTIATIONS. Following the City Commission's selection, the City may enter into further negotiations with the selected Proposer(s). Notwithstanding the preceding, the City is in no way obligated to enter into a contract with the selected Proposer(s) in the event the parties are unable to negotiate a contract. It is also understood and acknowledged by Proposer that no property, contract or legal rights of any kind shall be created at any time until and unless an Agreement has been agreed to; approved by the City; and executed by the parties. Any contract the City enters into with a successful Proposer, if any, shall contain provisions for a due diligence period to permit the City to conduct whatever reasonable investigations, analyses and studies that City may deem appropriate with respect to any real property that is part of the Project to satisfy City, at City's sole and absolute discretion, of the condition of the subject property, and shall specify that City's obligations to the Proposer shall be subject to and contingent upon such due diligence investigations and City's acceptance at its sole discretion as to the suitability of the Project.

21. POSTPONEMENT/CANCELLATION/ACCEPTANCE/REJECTION. The City may, at its sole and absolute discretion, reject any and all, or parts of any and all, responses; re-advertise this RFP; postpone or cancel, at any time, this RFP process; or waive any irregularities in this RFP, or in any responses received as a result of this RFP. Reasonable efforts will be made to either award the proposer the contract or reject all proposals within one-hundred twenty (120) calendar days after proposal opening date. A proposer may withdraw its proposal after expiration of one hundred twenty (120) calendar days from the date of proposal opening by delivering written notice of withdrawal to the Department of Procurement Management prior to award of the contract by the City Commission.

22. PROPOSER'S RESPONSIBILITY. Before submitting a response, each Proposer shall be solely responsible for making any and all investigations, evaluations, and examinations, as it deems necessary, to ascertain all conditions and requirements affecting the full performance of the contract. Ignorance of such conditions and requirements, and/or failure to make such evaluations, investigations, and examinations, will not relieve the Proposer from any obligation to comply with every detail and with all provisions and requirements of the contract, and will not be accepted as a basis for any subsequent claim whatsoever for any monetary consideration on the part of the Proposer.

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23. COSTS INCURRED BY PROPOSERS. All expenses involved with the preparation and submission of Proposals, or any work performed in connection therewith, shall be the sole responsibility (and shall be at the sole cost and expense) of the Proposer, and shall not be reimbursed by the City.

24. RELATIONSHIP TO THE CITY. It is the intent of the City, and Proposers hereby acknowledge and agree, that the successful Proposer is considered to be an independent contractor, and that neither the Proposer, nor the Proposer's employees, agents, and/or contractors, shall, under any circumstances, be considered employees or agents of the City.

24. OCCUPATIONAL HEALTH AND SAFETY. In compliance with Chapter 442, Florida Statutes, any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this proposal must be accompanied by a Material Safety Data Sheet (MSDS) which may be obtained from the manufacturer.

25. ENVIRONMENTAL REGULATIONS. The City reserves the right to consider a proposer's history of citations and/or violations of environmental regulations in investigating a proposer's responsibility, and further reserves the right to declare a proposer not responsible if the history of violations warrant such determination in the opinion of the City. Proposer shall submit with its proposal, a complete history of all citations and/or violations, notices and dispositions thereof. The non-submission of any such documentation shall be deemed to be an affirmation by the Proposer that there are no citations or violations. Proposer shall notify the City immediately of notice of any citation or violation which proposer may receive after the proposal opening date and during the time of performance of any contract awarded to it.

26. TAXES. The City of Miami Beach is exempt from all Federal Excise and State taxes.

27. MISTAKES. Proposers are expected to examine the terms, conditions, specifications, delivery schedules, proposed pricing, and all instructions pertaining to the goods and services relative to this RFP. Failure to do so will be at the Proposer's risk and may result in the Proposal being non-responsive.

28. PAYMENT. Payment will be made by the City after the goods or services have been received, inspected, and found to comply with contract, specifications, free of damage or defect, and are properly invoiced. Invoices must be consistent with Purchase Order format.

29. COPYRIGHT, PATENTS & ROYALTIES. Proposer shall indemnify and save harmless the City of Miami Beach, Florida, and its officers, employees, contractors, and/or agents, from liability of any nature or kind, including cost and expenses for, or on account of, any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the City of Miami Beach, Florida. If the Proposer uses any design, device or materials covered by letters, patent, or copyright, it is mutually understood and agreed, without exception, that the proposal prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

30. DEFAULT: Failure or refusal of the selected Proposer to execute a contract following approval of such contract by the City Commission, or untimely withdrawal of a response before such award is made and approved, may result in a claim for damages by the City and may be grounds for removing the Proposer from the City's vendor list.

31. MANNER OF PERFORMANCE. Proposer agrees to perform its duties and obligations in a professional manner and in accordance with all applicable Local, State, County, and Federal laws, rules, regulations and codes. Lack of knowledge or ignorance by the Proposer with/of applicable laws will in no way be a cause for relief from responsibility. Proposer agrees that the services provided shall be provided by employees that are educated, trained, experienced, certified, and licensed in all areas encompassed within their designated duties. Proposer agrees to furnish to the City any and all documentation, certification, authorization, license, permit, or registration currently required by applicable laws, rules, and regulations. Proposer further certifies that it and its employees will keep all licenses, permits, registrations, authorizations, or certifications required by applicable laws or regulations in full force and effect during the term of this contract. Failure of Proposer to comply with this paragraph shall constitute a material breach of this contract.

Where contractor is required to enter or go on to City of Miami Beach property to deliver materials or perform work or services as a result of any contract resulting from this solicitation, the contractor will assume the full duty, obligation and expense of obtaining all necessary licenses, permits, and insurance, and assure all work complies with all applicable laws. The contractor shall be liable for any damages or loss to the City occasioned by negligence of the Proposer, or its officers, employees, contractors, and/or agents, for failure to comply with applicable laws.

32. SPECIAL CONDITIONS. Any and all Special Conditions that may vary from these General Terms and Conditions shall have precedence.

33. NON-DISCRIMINATION. The Proposer certifies that it is in compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin. In accordance with the City's Human Rights Ordinance, codified in Chapter 62 of the City Code, Proposer shall prohibit (and cause hotel operator to prohibit) discrimination by reason of race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, and age or disability in the sale, lease, use or occupancy of the Hotel Project or any portion thereof.

34. DEMONSTRATION OF COMPETENCY. The city may consider any evidence available regarding the financial, technical, and other qualifications and abilities of a Proposer, including past performance (experience) in making an award that is in the best interest of the City, including:

- A. Pre-award inspection of a proposed property or properties may be made prior to the award of contract.
- B. Proposals will only be considered from firms which are regularly engaged in the business of providing the goods and/or services as described in this solicitation.
- C. Proposers must be able to demonstrate a good record of performance for a reasonable period of time, and have sufficient financial capacity, equipment, and organization to ensure that they can satisfactorily perform the services if awarded a contract under the terms and conditions of this solicitation.
- D. The terms "equipment and organization", as used herein shall, be construed to mean a fully equipped and well established company in line with the best business practices in the industry, and as determined by the City of Miami Beach.

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E. The City may consider any evidence available regarding the financial, technical, and other qualifications and abilities of a Proposer, including past performance (experience), in making an award that is in the best interest of the City.

F. The City may require Proposer s to show proof that they have been designated as authorized representatives of a manufacturer or supplier, which is the actual source of supply. In these instances, the City may also require material information from the source of supply regarding the quality, packaging, and characteristics of the products to be supply to the City.

35. ASSIGNMENT. The successful Proposer shall not assign, transfer, convey, sublet or otherwise dispose of the contract, including any or all of its right, title or interest therein, or his/her or its power to execute such contract, to any person, company or corporation, without the prior written consent of the City.

36. LAWS, PERMITS AND REGULATIONS. The Proposer shall obtain and pay for all licenses, permits, and inspection fees required to complete the work and shall comply with all applicable laws.

37. OPTIONAL CONTRACT USAGE. When the successful Proposer (s) is in agreement, other units of government or non-profit agencies may participate in purchases pursuant to the award of this contract at the option of the unit of government or non-profit agency.

38. VOLUME OF WORK TO BE RECEIVED BY CONTRACTOR. It is the intent of the City to purchase the goods and services specifically listed in this solicitation from the contractor. However, the City reserves the right to purchase any goods or services awarded from state or other governmental contract, or on an as-needed basis through the City's spot market purchase provisions.

39. DISPUTES. In the event of a conflict between the documents, the order of priority of the documents shall be as follows:

- A. Any contract or agreement resulting from the award of this solicitation; then
- B. Addendum issued for this solicitation, with the latest Addendum taking precedence; then
- C. The solicitation; then
- D. The Proposer's proposal in response to the solicitation.

40. INDEMNIFICATION. The successful Proposer shall indemnify and hold harmless the City and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the City or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the agreement by the successful Proposer or its employees, agents, servants, partners, principals, consultants or subcontractors. The successful Proposer shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the City, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The successful Proposer expressly understands and agrees that any insurance protection required by this agreement or otherwise provided by the successful Proposer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided. The above indemnification provisions shall survive the expiration or termination of this Agreement.

41. CONTRACT EXTENSION. The City reserves the right to require the Proposer to extend the proposal contract past the stated termination date for a period of up to 120 days in the event that a subsequent contract has not yet been awarded. Additional extensions past the 120 days may occur as needed by the City and as mutually agreed upon by the City and the Proposer.

42. FLORIDA PUBLIC RECORDS LAW. Proposers are hereby notified that all Proposals including, without limitation, any and all information and documentation submitted therewith, are exempt from public records requirements under Section 119.07(1), Florida Statutes, and s. 24(a), Art. 1 of the State Constitution until such time as the City provides notice of an intended decision or until thirty (30) days after opening of the proposals, whichever is earlier. Additionally, Contractor agrees to be in full compliance with Florida Statute 119.0701 including, but not limited to, agreement to (a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the services; (b) provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law; (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; (d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

43. OBSERVANCE OF LAWS. Proposers are expected to be familiar with, and comply with, all Federal, State, County, and City laws, ordinances, codes, rules and regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which, in any manner, may affect the scope of services and/or project contemplated by this RFP. Ignorance of the law(s) on the part of the Proposer will in no way relieve it from responsibility for compliance.

44. CONFLICT OF INTEREST. All Proposers must disclose, in their Proposal, the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the City of Miami Beach. Further, all Proposers must disclose the name of any City employee who owns, either directly or indirectly, an interest of ten (10%) percent or more in the Proposer entity or any of its affiliates.

45. MODIFICATION/WITHDRAWALS OF PROPOSALS. A Proposer may submit a modified Proposal to replace all or any portion of a previously submitted Proposal up until the Proposal due date and time. Modifications received after the Proposal due date and time will not be considered. Proposals shall be irrevocable until contract award unless withdrawn in writing prior to the Proposal due date, or after expiration of **120** calendar days from the opening of Proposals without a contract award. Letters of withdrawal received after the Proposal due date and before said expiration date, and letters of withdrawal received after contract award will not be considered.

47. EXCEPTIONS TO RFP. Proposers must clearly indicate any exceptions they wish to take to any of the terms in this RFP, and outline what, if any, alternative is being offered. All exceptions and alternatives shall be included and clearly delineated, in writing, in the Proposal. The City, at its sole and absolute discretion, may accept or reject any or all exceptions and alternatives. In cases in which exceptions and alternatives are rejected, the City shall require the Proposer to comply with the particular term and/or condition of the RFP to which Proposer took exception to (as said term and/or condition was originally set forth on the RFP). The City will not accept any exception to the Minimum Project Requirements or any term that is inconsistent or conflicts therewith; failure to adhere to such requirements shall render a Proposer non-responsive.

48. ACCEPTANCE OF GIFTS, FAVORS, SERVICES. Proposers shall not offer any gratuities, favors, or anything of monetary value to any official, employee, or agent of the City, for the purpose of influencing consideration of this Proposal. Pursuant to Sec. 2-449 of the City Code, no officer or employee of the City shall accept any gift, favor or service that might reasonably tend improperly to influence him in the discharge of his official duties.

49. SUPPLEMENTAL INFORMATION. City reserves the right to request supplemental information from Proposers at any time during the RFP solicitation process, unless otherwise noted herein.

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00200. DEFINITIONS:

Omitted.

00300. INSTRUCTIONS TO PROPOSERS:

Pre-Proposal Interpretations: **Only questions answered by written Addenda will be binding and may supersede terms noted in this RFP. Oral and other interpretations or clarifications will be without legal effect.** All questions about the meaning or intent of the RFP are to be directed to the City's Procurement Director or designated representative in writing. Interpretations or clarifications considered necessary by the City in response to such questions will be issued by the City by means of Addenda mailed or delivered to all parties recorded by the City's Procurement Director as having received the Bidding Documents. **Written questions should be received no less than ten (10) calendar days prior to the date of the opening of proposals. There shall be no obligation on the part of City or the City's Procurement Director to respond to questions received less than ten (10) calendar days prior to original proposal opening date stipulated in this solicitation.**

The City reserves the right to require additional information to determine project viability and proposer qualifications at any point throughout the process. Proposer shall have seven (7) calendar days respond to such a request.

1. Printed Form of Proposal: All proposals must be made upon the blank Proposal Tender Form (to be made available following the Phase I Evaluation) and must give the price in strict accordance with the instructions thereon. The proposal must be signed and acknowledged by the Proposer in accordance with the directions on the proposal form.
2. Acceptance or Rejection of Proposals: The City reserves the right to reject any or all proposals prior to award. Reasonable efforts will be made to either award the Contract or reject all proposals within one-hundred twenty (120) calendar days after proposal opening date. A Proposer may not withdraw its proposal unilaterally nor change the Contract Price before the expiration of ninety (90) calendar days from the date of proposal opening. A Proposer may withdraw its proposal after the expiration of one hundred twenty (120) calendar days from the date of proposal opening by delivering written notice of withdrawal to the Department of Procurement Management prior to award of the Contract by the City Commission.
3. Performance Evaluation: An interim performance evaluation of the successful proposer may be submitted by the Contract Administrator during construction of the Project. A final performance evaluation shall be submitted when the Request for Final Payment to the construction contractor is forwarded for approval. In either situation, the completed evaluation(s) shall be forwarded to the City's Procurement Director who shall provide a copy to the successful proposer. Said evaluation(s) may be used by the City as a factor in considering the responsibility of the successful proposer for future proposals with the City.

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4. Postponement of Date for Presenting and Opening Proposals: The City reserves the right to postpone the date for receipt and opening of proposals and will make a reasonable effort to give at least five (5) calendar days written notice of any such postponement to each prospective proposer.
5. Qualifications of Proposers: Proposals shall be considered only from Proposers which submit their proposal by the proposal's due date; proposers who meet the "Minimum Requirements"; and proposers that submit all required documentation as requested under this solicitation.

In determining a proposer's responsibility and ability to perform the Contract, City has the right to investigate and request information concerning the financial condition, experience record, personnel, equipment, facilities, principal business location and organization of the proposer, the proposer's record with environmental regulations, and the claims/litigation history of the proposer. The City reserves the right to consider third-party information (e.g., Dun & Bradstreet's Supplier Reports or similar) in determination of capacity.

6. Addenda and Modifications: The City shall make reasonable efforts to issue addenda within seven (7) calendar days prior to proposal opening. All addenda and other modifications made prior to the time and date of proposal opening shall be issued as separate documents identified as changes to the Project Manual.
7. Occupational Health and Safety: In compliance with Chapter 442, Florida Statutes, any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this proposal must be accompanied by a Material Safety Data Sheet (MSDS) which may be obtained from the manufacturer.
8. Environmental Regulations: The City reserves the right to consider a proposer's history of citations and/or violations of environmental regulations in investigating a proposer's responsibility, and further reserves the right to declare a proposer not responsible if the history of violations warrant such determination in the opinion of the City. Proposer shall submit with its proposal, a complete history of all citations and/or violations, notices and dispositions thereof. The non-submission of any such documentation shall be deemed to be an affirmation by the Proposer that there are no citations or violations. Proposer shall notify the City immediately of notice of any citation or violation which proposer may receive after the proposal opening date and during the time of performance of any contract awarded to it.
9. "Or Equal" Clause: Whenever a material, article or piece of equipment is identified in the RFP including plans and specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, or otherwise, City, will have made its best efforts to name at least three (3) such references. Any such reference is intended merely to establish a standard; and, unless it is followed by the words "**no substitution is permitted**" because of form, fit, function and quality, any material, article, or equipment of other manufacturers and vendors which will perform or serve the requirements of the general design will be considered equally acceptable provided the materials, article or equipment so proposed is, in the sole opinion of City, equal in substance, quality and function.

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ANY REQUESTS FOR SUBSTITUTION MUST BE MADE TO THE CITY'S PROCUREMENT DIRECTOR.

10. Protested Solicitation Award: Proposers that are not selected may protest any recommendation for contract award in accordance with City of Miami Beach Code Section 2-371, which establishes procedures for resulting protested proposals and proposed awards. Protest not timely pursuant to the requirements of the City Code shall be barred.
11. Veteran Business Enterprises: Pursuant to City of Miami Beach Code Section 2-374, the City shall give a preference to a responsive and responsible Proposer which is a small business concern owned and controlled by a veteran(s) or which is a service-disabled veteran business enterprise, and which is within five percent (5%) of the lowest responsive, responsible proposer, by providing such proposer an opportunity of providing said goods or contractual services for the lowest responsive Proposal amount. Whenever, as a result of the foregoing preference, the adjusted prices of two (2) or more Proposers which are a small business concern owned and controlled by a veteran(s) or a service-disabled veteran business enterprise constitute the lowest proposal pursuant to an RFP or oral or written request for quotation, and such proposals are responsive, responsible and otherwise equal with respect to quality and service, then the award shall be made to the service-disabled veteran business enterprise.

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00305. EVALUATION PROCESS

PHASE I EVALUATION PROCESS

1. **Two Step Evaluation.** The Phase I evaluation of responsive proposals will proceed in a two-step process. The first step (Step 1) will consist of the qualitative criteria listed below to be considered by the Evaluation Committee. The second step (Step 2) will consist of quantitative criteria established below to be added to the first step scores by the Procurement Management Department. The City reserves the right to engage the advice of a consultant or other technical experts in assisting the Evaluation Committee in the review of proposals received.
2. **Evaluation Committee.** An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each response in accordance with the requirements set forth in this solicitation. If further information is desired, proposers may be requested to make additional written submittals and/or oral presentations to the Evaluation Committee. The evaluation of responses will proceed in a two-step process, as set forth below. Step 1 will consist of the qualitative criteria listed below to be considered by the Evaluation Committee. Step 2 will consist of the quantitative criteria established below, to be added to the Evaluation Committee results by the Department of Procurement Management.
3. **Phase I / Step 1 Evaluation (100 Points).** The Evaluation Committee shall meet to evaluate each response in accordance with the qualifications criteria established below for Step 1, Qualitative Criteria. In doing so, the Evaluation Committee may:
 - a. Review and score all responses received utilizing the Weighted Criteria
 - b. Short-list proposers to be further considered in oral presentations
 - c. Interview selected proposers
 - d. Re-score interviewed proposers utilizing the Weighted Criteria
 - e. Recommend to City Manager proposers to be short-listed for Phase II.

Proposers may receive up to a total of 100 points for the following evaluation criteria.

Evaluation Criteria	Maximum Points
Proposing Team Experience & Qualifications	60
Number of Public Parking Spaces Generated by Project	30
Project within High Demand Areas (as identified by the Walker Study)	10

Phase I / Step 2 Evaluation (5 Points). Following the results of Step 1 Evaluation, the proposers may receive additional points to be added by the Department of Procurement Management to those points earned in Step 1, as follows.

- Veterans and State-Certified Service-Disabled Veteran Business Enterprise (5 points)

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4. Determination of Phase I Ranking. At the conclusion of the Evaluation Committee Step 1 scoring, Step 2 Points will be added to each Evaluation Committee member's scores by the Department of Procurement Management. Step 1 and 2 scores will be converted to rankings in accordance with the example below:

		Proposer A	Proposer B	Proposer C
Committee Member 1	Step 1 Points	82	76	80
	Step 2 Points	0	5	0
	Total	82	81	80
	Rank	1	2	3
Committee Member 2	Step 1 Points	90	86	72
	Step 2 Points	0	5	0
	Total	90	91	72
	Rank	2	1	3
Committee Member 3	Step 1 Points	78	74	80
	Step 2 Points	0	5	0
	Total	78	79	80
	Rank	3	2	1
Low Aggregate Score		6	5	7
Phase I Ranking		2	1	3

PHASE II EVALUATION PROCESS

Evaluation (100 points). An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each short-listed response in accordance with the criteria established herein. In doing so, the Evaluation Committee will:

- Interview short-listed proposers
- Score proposers utilizing the Weighted Criteria
- Recommend to City Manager the top ranked respondent

Proposers may receive up to a total of 100 points for the following evaluation criteria.

- Phase II Evaluation (100 Points).** The Evaluation Committee shall meet to evaluate each response in accordance with the criteria established below for Phase II.. In doing so, the Evaluation Committee may:

- Review and score all responses received utilizing the Weighted Criteria
- Short-list proposers to be further considered in oral presentations
- Interview selected proposers
- Re-score interviewed proposers utilizing the Weighted Criteria

Proposers may receive up to a total of 100 points for the following evaluation criteria.

Evaluation Criteria	Maximum Points
Project Financial Considerations	60
Approach & Methodology	30
Design	10

00315. PROPOSAL SUBMISSION REQUIREMENTS

1. **FORMAT FOR SUBMITTAL.** Proposal packages must contain all the information requested in the following documents, each fully completed, and signed as required. Proposal packages which do not include all required documentation, or are not submitted in the required format, or do not have the appropriate signatures on each document, may be deemed non-responsive. The City reserves the right to request any documentation omitted, with exception of the Proposal Price form. Proposer must submit the documentation within three (3) calendar days upon request from the City, or the proposal may be deemed non-responsive. Non-responsive proposal packages will receive no further consideration.

Proposers may not dictate the circumstances under which the documents are deemed to be confidential. Only the State Legislature may determine which public records are subject to disclosure and which are not. Moreover, a private party cannot render public records exempt from disclosure merely by designating as confidential the material it furnishes to the City. The desire of the private party to maintain privacy of certain materials filed with the City is of no consequence unless such materials fall within a legislative created exemption to Chapter 119, Florida Statutes.

2. **CONTENTS AND FORMAT OF PROPOSAL.** To facilitate review of proposals, proposers are requested to submit proposals in the format stipulated in this section, including clearly identifying each proposal section (tab).

PHASE I RESPONSE FORMAT

In order to maintain comparability, facilitate the review process, and assist the Evaluation Committee in review of responses, it is recommended that responses be organized and tabbed in accordance with the sections and manner specified below. Hard copy submittals should be bound and tabbed as enumerated below and contain a table of contents with page references. Electronic copies should also be tabbed and contain a table of contents with page references. Proposers should prepare their submittal on 8.5 x 11 paper. Please feel free to include other materials, such as covers, appendices, brochures, etc. at your discretion. The recommended number of pages the City desires for each submittal item is indicated below. These are recommendations only and actual pages may exceed the recommendation.

The City reserves the right to require additional information to determine financial capability. Proposer shall have ten (10) calendar days respond to such a request.

TAB 1	Executive Summary
<ol style="list-style-type: none"> 1. Cover Page, Letter, and Table of Contents. The cover letter must indicate Prime Proposer and be signed by same. 2. Appendix C, Proposal Certification, Questionnaire & Requirements Affidavit 	
TAB 2	Proposing Team's Experience & Qualifications
<p>Qualifications of Proposing Team. Describe experience and qualifications of the Proposer in providing the services detailed herein.</p> <ol style="list-style-type: none"> 1. Provide background information, including company history, years in business, number of employees, and any other information communicating capabilities and experience. 2. An organizational chart depicting the structure and lines of authority and communication. A narrative that describes the intended structure regarding the delivery of the project, accountability and compliance with the terms of the RFP. 	

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3. Identify all team members and key personnel who will be assigned to the Project and their intended functions and responsibilities.
4. For individuals, provide resumes of the team's key personnel who will be assigned to the Project that demonstrate their experience and qualifications, education and performance record.
5. For corporate team members, provide a list of each team member company's experience and qualifications relevant to the project. Including, but not limited to, prior clients. For each prior client, include
 - Client and Project name and Location
 - Contact Information
 - Type of Project (e.g., public private partnership, development agreement, etc.)
 - Project Description
 - Project Hard Cost
6. **Financial Capacity.** Upon request from the City, provide (within three days) one of the following to determine financial capacity.
 - **Audited Financial Statement:** Most recent annual reviewed/audited financial statement with the auditor's notes. Such statements should include, as a minimum, balance sheets (statements of financial position) and statements of profit and loss (statement of net income).

OR

 - **Dun & Bradstreet:** Arrange and pay for D&B to send the Supplier Qualifier Report (SQR) to the City through electronic means, emailing to MariaEstevez@miamibeachfl.gov. The cost of the preparation of the D&B report shall be the responsibility of the Respondent. The proposer can request the report from D&B at: <https://supplierportal.dnb.com/webapp/wcs/stores/servlet/SupplierPortal?storeId=11696>
 - Any other additional information relative to the firm's financial capacity that may be requested by the City.

TAB 4 **Project Description**

Identify type of project is being proposed from one of the following options:

- 1) the development of privately-owned property that is not adjacent to any City-owned property (including, without limitation, development of air rights over privately owned property), with City to own/operate the public parking garage components and the successful Proposer to own/operate other components of the Project (which may include, without limitation, retail, commercial or other uses); or
- 2) the development of privately-owned property together with adjacent City-owned property listed in Section 2C (including, without limitation, development of air rights over privately owned property), with City to own/operate the public parking garage components and the successful Proposer to own/operate other components of the Project (which may include, without limitation, retail, commercial or other uses).
2. Provide detailed information on proposed project site(s) including:
 - a. Address(es)
 - b. Folio Number(s)
 - c. Ownership
3. Identify though conceptual layout the estimated parking generated by the Project.

4. Identify other proposed Project uses and associated sq. ft. (e.g., retail, office, residential, etc.).

PHASE II RESPONSE FORMAT

Following City Commission selection of the short-listed proposers pursuant to Phase I of the RFP, the short-listed proposers will be required to prepare a detailed proposal for the Project to be considered in Phase II. The City will allow approximately four weeks from short-listing for short-listed proposers to prepare their Phase II submittals.

In order to maintain comparability, facilitate the review process, and assist the Evaluation Committee in review of responses, it is recommended that responses be organized and tabbed in accordance with the sections and manner specified below. Hard copy submittals should be bound and tabbed as enumerated below and contain a table of contents with page references. Electronic copies should also be tabbed and contain a table of contents with page references. Proposers should prepare their submittal on 8.5 x 11 paper. Please feel free to include other materials, such as covers, appendices, brochures, etc. at your discretion. The recommended number of pages the City desires for each submittal item is indicated below. These are recommendations only and actual pages may exceed the recommendation.

The submission of a proposal shall constitute an incontrovertible representation by proposer that proposer has complied with the above requirements and understands all terms and conditions for performance and furnishing of the Work.

TAB 1	Financial Consideration
Provide estimates of cost per additional parking space for the proposed Project (Present Value of Total Cost to the City Divided by number of Parking Spaces – less any proposed revenues to the City)	
TAB 2	Approach & Methodology
<p>1. Project Schedule. Provide a Project schedule and describe Proposer's plan for adherence to the schedule defined. Identify any plans to phase or otherwise expedite the public parking portions of the project.</p> <p>2. Construction Logistics Plan. Provide a construction logistics plan, which may include, but not necessarily be limited to, planning, coordination and supervision of the work and materials, staging areas, worker parking, traffic, and any other activities affecting the project. Include plans to limit impact to surrounding properties and areas.</p> <p>3. Proposed Development Budget (to include summary of hard construction costs, architecture/engineering costs, development fees, other soft costs and required fees, FF&E if applicable, contingency, financing costs and any other unique project costs).</p>	
TAB 3	Concept Design
Provide details of proposed conceptual design, including floor plans, elevations and the dominant aesthetic drivers, systems, and products. The conceptual design should be in sufficient detail to illustrate the project in terms of a set of integrated ideas and concepts regarding project uses, its benefits, aesthetic qualities and how the project will interact with the surrounding area, in terms of how the project satisfies the purposes of the RFP.	

APPENDIX A



MIAMI BEACH

Proposal Certification, Questionnaire & Requirements Affidavit

PROCUREMENT DEPARTMENT
1700 Convention Center Drive
Miami Beach, Florida 33139

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Solicitation No: 2014-294-ME	Solicitation Title: Design-Builder Services for the Miami Beach Convention Center Renovation and Expansion	
Procurement Contact: Maria Estevez	Tel: 305-673-7490	Email: mestevez@miamibeachfl.gov

PROPOSAL CERTIFICATION, QUESTIONNAIRE & REQUIREMENTS AFFIDAVIT

Purpose: The purpose of this Proposal Certification, Questionnaire and Requirements Affidavit Form is to inform prospective Proposers of certain solicitation and contractual requirements, and to collect necessary information from Proposers in order that certain portions of responsiveness, responsibility and other determining factors and compliance with requirements may be evaluated. **This Proposal Certification, Questionnaire and Requirements Affidavit Form is a REQUIRED FORM that must be submitted fully completed and executed.**

1. General Proposer Information.

FIRM NAME:		
No of Years in Business:	No of Years in Business Locally:	No. of Employees:
OTHER NAME(S) BIDDER HAS OPERATED UNDER IN THE LAST 10 YEARS:		
FIRM PRIMARY ADDRESS (HEADQUARTERS):		
CITY:		
STATE:		
TELEPHONE NO.:		
TOLL FREE NO.:		
FAX NO.:		
FIRM LOCAL ADDRESS:		
CITY:		
STATE:		
PRIMARY ACCOUNT REPRESENTATIVE FOR THIS ENGAGEMENT:		
ACCOUNT REP TELEPHONE NO.:		
ACCOUNT REP TOLL FREE NO.:		
ACCOUNT REP EMAIL:		
FEDERAL TAX IDENTIFICATION NO.:		

The City reserves the right to seek additional information from Proposer or other source(s), including but not limited to: any firm or principal information, applicable licensure, resumes of relevant individuals, client information, financial information, or any information the City deems necessary to evaluate the capacity of the Proposer to perform in accordance with contract requirements.

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1. **Veteran Owned Business.** Is Proposer claiming a veteran owned business status?
☐ YES ☐ NO

SUBMITTAL REQUIREMENT: Proposers claiming veteran owned business status shall submit a documentation proving that firm is certified as a veteran-owned business or a service-disabled veteran owned business by the State of Florida or United States federal government, as required pursuant to ordinance 2011-3748.

2. **Conflict Of Interest.** All Proposers must disclose, in their proposal, the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the City of Miami Beach. Further, all proposers must disclose the name of any City employee who owns, either directly or indirectly, an interest of ten (10%) percent or more in the proposer entity or any of its affiliates.

SUBMITTAL REQUIREMENT: Proposers must disclose the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the City of Miami Beach. Proposers must also disclose the name of any City employee who owns, either directly or indirectly, an interest of ten (10%) percent or more in the proposer entity or any of its affiliates

3. **References & Past Performance.** Proposer shall submit at least three (3) references for whom the proposer has completed work similar in size and nature as the work referenced in solicitation.

SUBMITTAL REQUIREMENT: For each reference submitted, the following information is required: 1) Firm Name, 2) Contact Individual Name & Title, 3) Address, 4) Telephone, 5) Contact's Email and 6) Narrative on Scope of Services Provided.

4. **Suspension, Debarment or Contract Cancellation.** Has proposer ever been debarred, suspended or other legal violation, or had a contract cancelled due to non-performance by any public sector agency?
☐ YES ☐ NO

SUBMITTAL REQUIREMENT: If answer to above is "YES," proposer shall submit a statement detailing the reasons that led to action(s).

5. **Vendor Campaign Contributions.** Proposers are expected to be or become familiar with, the City's Campaign Finance Reform laws, as codified in Sections 2-487 through 2-490 of the City Code. Proposers shall be solely responsible for ensuring that all applicable provisions of the City's Campaign Finance Reform laws are complied with, and shall be subject to any and all sanctions, as prescribed therein, including disqualification of their proposals, in the event of such non-compliance.

SUBMITTAL REQUIREMENT: Submit the names of all individuals or entities (including your sub-consultants) with a controlling financial interest as defined in solicitation. For each individual or entity with a controlling financial interest indicate whether or not each individual or entity has contributed to the campaign either directly or indirectly, of a candidate who has been elected to the office of Mayor or City Commissioner for the City of Miami Beach.

6. **Code of Business Ethics.** Pursuant to City Resolution No.2000-23879, each person or entity that seeks to do business with the City shall adopt a Code of Business Ethics ("Code") and submit that Code to the Procurement Management Department with its response or within five (5) days upon receipt of request. The Code shall, at a minimum, require the proposer, to comply with all applicable governmental rules and regulations including, among others, the conflict of interest, lobbying and ethics provision of the City of Miami Beach and Miami Dade County.

SUBMITTAL REQUIREMENT: Proposer shall submit firm's Code of Business Ethics. In lieu of submitting Code of Business Ethics, Proposer may submit a statement indicating that it will adopt, as required in the ordinance, the City of Miami Beach Code of Ethics, available at www.miamibeachfl.gov/procurement/.

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7. **Prevailing Wage:** Intentionally Omitted.
8. **Equal Benefits for Employees with Spouses and Employees with Domestic Partners.** Intentionally Omitted.
9. **Public Entity Crimes.** Section 287.133(2)(a), Florida Statutes, as currently enacted or as amended from time to time, states that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal, Proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a proposal, Proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals, Proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, Proposer agrees with the requirements of Section 287.133, Florida Statutes, and certifies it has not been placed on convicted vendor list.

10. Have you ever failed to complete any work awarded to you? If so, where and why?

☐ YES ☐ NO

SUBMITTAL REQUIREMENT: If yes, submit information on project, agency, agency contact and reason why contractor failed to complete work.

11. Has a surety company ever intervened to assist a governmental agency or other client of the proposer in completing work that the proposer failed to complete?

☐ YES ☐ NO

SUBMITTAL REQUIREMENT: If yes, submit owner names, addresses and telephone numbers, and surety and project names, for all projects for which you have performed work, where your surety has intervened to assist in completion of the project, whether or not a claim was made.

12. **Bankruptcy.** Has the proposer filed any bankruptcy petitions (voluntary or involuntary) which have been filed by or against the Proposer, its parent or subsidiaries or predecessor organizations during the past five (5) years. Include in the description the disposition of each such petition.

☐ YES ☐ NO

SUBMITTAL REQUIREMENT: If yes, list and describe all bankruptcy petitions (voluntary or involuntary) which have been filed by or against the Proposer, its parent or subsidiaries or predecessor organizations during the past five (5) years. Include in the description the disposition of each such petition.

13. **Litigation History.** Has proposer or any principal or employee of the Proposer (relating to professional endeavors only) been the subject of any claims, arbitrations, administrative hearings and lawsuits brought by or against the Proposer or its predecessor organization(s) during the last five (5) years.

☐ YES ☐ NO

SUBMITTAL REQUIREMENT: If yes, list all case names; case, arbitration or hearing identification numbers; the name of the project over which the dispute arose; a description of the subject matter of the dispute; and the final outcome of the claim.

14. Has the Corporation, Officers of the Corporation, Principal Stockholders, Principals of the Partnership or Owner of Sole Proprietorship ever been indicted, debarred, disqualified or suspended from performing work for the Federal Government or any State or Local Government or subdivision or agency thereof?

MIAMI BEACH

☐

YES

☐

NO

SUBMITTAL REQUIREMENT: If yes, list the specific cases and the charging agency.

15. **Principals.** Provide the names of all individuals or entities (including your sub-consultants) with a controlling financial interest. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of 10% or more of the outstanding capital stock in any corporation or a direct or indirect interest of 10% or more in a firm. The term "firm" shall mean any corporation, partnership, business trust or any legal entity other than a natural person.
16. **Acknowledgement of Addendum.** After issuance of solicitation, the City may release one or more addendum to the solicitation which may provide additional information to proposers or alter solicitation requirements. The City will strive to reach every proposer having received solicitation through the City's e-procurement system, PublicPurchase.com. However, proposers are solely responsible for assuring they have received any and all addendum issued pursuant to solicitation. This Acknowledgement of Addendum section certifies that the proposer has received all addendum released by the City pursuant to this solicitation. Failure to obtain and acknowledge receipt of all addendum may result in proposal disqualification.

Initial to Confirm Receipt		Initial to Confirm Receipt		Initial to Confirm Receipt	
	Addendum 1		Addendum 6		Addendum 11
	Addendum 2		Addendum 7		Addendum 12
	Addendum 3		Addendum 8		Addendum 13
	Addendum 4		Addendum 9		Addendum 14
	Addendum 5		Addendum 10		Addendum 15

If additional confirmation of addendum is required, submit under separate cover.

17. **Art in Public Places (AIPP):** By virtue of submitting a proposal to this RFP, Proposer affirms that it will comply with the Art in Public Places (AIPP) requirements of the City pursuant to Sections 82-536 to 82-612 of the City Code without limitation and that any resulting project plans, designs and guaranteed maximum price (GMP) shall be fully compliant with the AIPP requirements.

DISCLOSURE AND DISCLAIMER SECTION

The solicitation referenced herein is being furnished to the recipient by the City of Miami Beach (the "City") for the recipient's convenience. Any action taken by the City in response to Proposals made pursuant to this solicitation, or in making any award, or in failing or refusing to make any award pursuant to such Proposals, or in cancelling awards, or in withdrawing or cancelling this solicitation, either before or after issuance of an award, shall be without any liability or obligation on the part of the City.

In its sole discretion, the City may withdraw the solicitation either before or after receiving Proposals, may accept or reject Proposals, and may accept Proposals which deviate from the solicitation, as it deems appropriate and in its best interest. In its sole discretion, the City may determine the qualifications and acceptability of any party or parties submitting Proposals in response to this solicitation.

Following submission of a Bid or Proposal, the applicant agrees to deliver such further details, information and assurances, including financial and disclosure data, relating to the Proposal and the applicant including, without limitation, the applicant's affiliates, officers, directors, shareholders, partners and employees, as requested by the City in its discretion.

The information contained herein is provided solely for the convenience of prospective Proposers. It is the responsibility of the recipient to assure itself that information contained herein is accurate and complete. The City does not provide any assurances as to the accuracy of any information in this solicitation.

Any reliance on these contents, or on any permitted communications with City officials, shall be at the recipient's own risk. Proposers should rely exclusively on their own investigations, interpretations, and analyses. The solicitation is being provided by the City without any warranty or representation, express or implied, as to its content, its accuracy, or its completeness. No warranty or representation is made by the City or its agents that any Proposal conforming to these requirements will be selected for consideration, negotiation, or approval.

The City shall have no obligation or liability with respect to this solicitation, the selection and the award process, or whether any award will be made. Any recipient of this solicitation who responds hereto fully acknowledges all the provisions of this Disclosure and Disclaimer, is totally relying on this Disclosure and Disclaimer, and agrees to be bound by the terms hereof. Any Proposals submitted to the City pursuant to this solicitation are submitted at the sole risk and responsibility of the party submitting such Proposal.

This solicitation is made subject to correction of errors, omissions, or withdrawal from the market without notice. Information is for guidance only, and does not constitute all or any part of an agreement.

The City and all Proposers will be bound only as, if and when a Proposal (or Proposals), as same may be modified, and the applicable definitive agreements pertaining thereto, are approved and executed by the parties, and then only pursuant to the terms of the definitive agreements executed among the parties. Any response to this solicitation may be accepted or rejected by the City for any reason, or for no reason, without any resultant liability to the City.

The City is governed by the Government-in-the-Sunshine Law, and all Proposals and supporting documents shall be subject to disclosure as required by such law. All Proposals shall be submitted in sealed proposal form and shall remain confidential to the extent permitted by Florida Statutes, until the date and time selected for opening the responses. At that time, all documents received by the City shall become public records.

Proposers are expected to make all disclosures and declarations as requested in this solicitation. By submission of a Proposal, the Proposer acknowledges and agrees that the City has the right to make any inquiry or investigation it deems appropriate to substantiate or supplement information contained in the Proposal, and authorizes the release to the City of any and all information sought in such inquiry or investigation. Each Proposer certifies that the information contained in the Proposal is true, accurate and complete, to the best of its knowledge, information, and belief.

Notwithstanding the foregoing or anything contained in the solicitation, all Proposers agree that in the event of a final un-appealable judgment by a court of competent jurisdiction which imposes on the City any liability arising out of this solicitation, or any response thereto, or any action or inaction by the City with respect thereto, such liability shall be limited to \$10,000.00 as agreed-upon and liquidated damages. The previous sentence, however, shall not be construed to circumvent any of the other provisions of this Disclosure and Disclaimer which imposes no liability on the City.

In the event of any differences in language between this Disclosure and Disclaimer and the balance of the solicitation, it is understood that the provisions of this Disclosure and Disclaimer shall always govern. The solicitation and any disputes arising from the solicitation shall be governed by and construed in accordance with the laws of the State of Florida.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 106 OF THE MIAMI BEACH CITY CODE, ENTITLED "TRAFFIC AND VEHICLES," BY AMENDING ARTICLE II, ENTITLED "METERED PARKING," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," BY AMENDING SECTION 106-47, ENTITLED "FREIGHT, COMMERCIAL, AND PASSENGER CURB LOADING ZONES; HOURS, DELIVERIES"; BY DELETING SUBSECTION (C), (D) AND (E); BY AMENDING SUBSECTION (B) TO REQUIRE PROPERTY OWNERS AND BUSINESSES TO CONFIRM COMPLIANCE WITH SUBSECTION (G) FOR COMMERCIAL MOTOR VEHICLES DELIVERIES AND SERVICES; BY PROHIBITING DELIVERIES OR SERVICES FOR COMMERCIAL MOTOR VEHICLES THAT FAIL TO COMPLY WITH SUBSECTIONS (F) THROUGH (N); BY CREATING A NEW SUBSECTION (D) AND (E), WHICH LIMITS THE AUTHORITY OF THE SPECIAL MASTER; BY AMENDING THE ENFORCEMENT AND PENALTY PROVISIONS FOR VIOLATIONS OF SUBSECTION (B); PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission has held discussions related to commercial motor vehicles blocking lanes on Washington Avenue, Collins Avenue; Ocean Drive, West Avenue and other major corridors, which discussions included enforcement action and long term solutions; and

WHEREAS, the City has established commercial and freight loading zone regulations that provide opportunities for commercial motor vehicles to properly conduct their deliveries without impeding or destructing vehicular lanes of traffic throughout the City; and

WHEREAS, the Administration believes that property owner(s) or business(es) must ensure that the commercial motor vehicle operator(s) continue to comply with those permit requirements, restricted hours, and maximum time limits in order to protect the health, safety and welfare of the motoring public; and

WHEREAS, this amendment is necessary to ensure that property owner(s) and business(es) within these highly traveled corridors are not complacent, and are responsible for the obstruction of vehicular lanes by commercial motor vehicles during the acceptance of deliveries and services.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. That Chapter 106, "Traffic and Vehicles," Article II, "Metered Parking," Division 1, "Generally," Section 106-47, entitled, "Freight, Commercial, and Passenger Curb Loading Zones; Hours, Deliveries"; of the Code of the City of Miami Beach, Florida, is hereby established, as follows:

Chapter 106. Traffic and Vehicles

* * *

Article II. Metered Parking

Division. 1 Generally

* * *

Sec. 106-47. Freight, commercial, and passenger curb loading zones; hours, deliveries.

- (a) [Authorization.] The city manager or his designee is hereby authorized to designate any street freight, commercial, and passenger curb loading zones as permissible automobile parking areas during such hours as such officials, in their discretion, may direct.
- (b) [Enforcement against property owners and/or businesses.] Freight, commercial, and passenger curb loading zone regulations, including as posted by sign, may be enforced, in addition to the procedures provided in this chapter, against property owners and/or businesses which accept services or deliveries from commercial motor vehicles or vehicles violating such regulations.
 - (1) A property owner(s) or business that accepts services or deliveries from a commercial motor vehicle must confirm that the operator/driver of the commercial motor vehicle has complied with subsection (g).
 - (2) It is prohibited for a property owner(s) or business to accept any services or deliveries from the operator/driver of a commercial motor vehicle that is not in compliance with subsections (f) through (n).
 - (3) The prohibitions set forth within subsection (b) will not apply to property owners or businesses that accept deliveries from commercial motor vehicles, which are responsible for the delivery of package(s) or parcel(s) of various goods or mail.
- (c) ~~Civil fine for violators. The following civil fines shall be imposed for a violation of this section:~~
 - ~~(1) First offense: Warning~~
 - ~~(2) Second offense (within one year of the first offense): \$150.00~~
 - ~~(3) Third offense (within one year of the first offense): \$300.00~~
 - ~~(4) Fourth or more offenses (within one year of the first offense): \$600.00~~
- (d) ~~Enforcement. The code enforcement department or parking department shall enforce the provisions of this section. This shall not preclude other law enforcement agencies or regulatory bodies from any action to assure compliance with this section and all applicable laws. If a parking enforcement specialist or a code compliance officer finds a violation of this article, the parking enforcement specialist or the code compliance officer shall issue a notice of violation to the violator as provided in chapter 30 of this Code, as may be amended from time to time. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within ten days after service of the notice of violation and that failure to appeal the violation within the ten days, shall constitute an admission of the violation and a waiver of the right to a hearing.~~

- (e) ~~Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal.~~
- ~~(1) A violator who has been served with a notice of violation shall elect either to:~~
- ~~a. Pay the civil fine in the manner indicated on the notice of violation; or~~
- ~~b. Request an administrative hearing before a special master to appeal the notice of violation within ten days of the issuance of the notice of violation.~~
- ~~(2) The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73.~~
- ~~(3) If the named violator after notice fails to pay the civil fine, or fails to timely request an administrative hearing before a special master, the special master shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decision of the code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special master, and be treated as an admission of the violation, and fines and penalties may be assessed accordingly.~~
- ~~(4) Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.~~
- (c) Penalties and enforcement.

1. A violation of subsection (b) shall be subject to the following fines:

- a. If the violation is the first offense, a person shall receive a civil fine of \$1,000.00;
- b. If the violation is the second violation within the preceding six months, a person shall receive a civil fine of \$2,000.00;
- c. If the violation is the third violation within the preceding six months, a person shall receive a civil fine of \$3,000.00;
- d. If the violation is the fourth or subsequent violation within the preceding 2 months, a person shall receive a civil fine of \$5,000.00.

2. Enforcement. The Miami Beach police department, the Parking Department or the Code Compliance Department shall enforce this section. This shall not preclude other enforcement agencies from any action to assure compliance with this section and all applicable laws. If a violation of subsection (b) is observed, the lower case enforcement officer will be authorized to issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten (10) days after service of the notice of violation, and that the failure to appeal the violation within ten (10) days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

3. Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master.

a. A violator who has been served with a notice of violation must elect to either:

i. pay the civil fine in the manner indicated on the notice of violation; or

ii. request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten (10) days of the service of the notice of violation.

b. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.

c. If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special master, the violation is deemed valid. The failure of the named violator to appeal the decision of the police officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.

d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the sixty-first (61st) day following the recording of any such lien that remains unpaid, the City may foreclose or otherwise execute upon the lien.

e. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

(d) The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed

to request an administrative hearing within ten (10) days of the service of the notice of violation.

- (e) The special master shall not have discretion to alter the penalties prescribed in subsection (c)(1).

* * *

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2015.

ATTEST:

PHILIP LEVINE, MAYOR

RAFAEL GRANADO, CITY CLERK

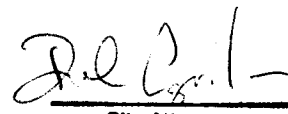
Underline denotes new language

Double underline denotes additions after First Reading


~~Strike-through~~ denotes deleted language

(Sponsored by Commissioner Michael Grieco)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney



Date

10/7/15

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COMMISSION ITEM SUMMARY

Condensed Title:

Ordinance amendments to the land development regulations to consolidate and standardize the notification, rehearing and appeal procedures for all land use boards, including administrative appeals and quasi-judicial applications before the historic preservation board, board of adjustment, planning board, and design review board.

Key Intended Outcome Supported:

Streamline the Delivery of Services Through All Departments. Improve Building Development Related Processes From Single Family Residences To The Large Development Projects.

Supporting Data (Surveys, Environmental Scan, etc The City's efforts to meet residents' expectations in delivering services dropped from 67% in 2012 to 58% in 2014.

Item Summary/Recommendation:

FIRST READING

The Consolidation and Standardization of Notification Procedures ordinance consolidates the various notice provisions contained in the Land Development Regulations, and the Rehearings and Appeals ordinance consolidates these procedures into one section of the City Code. This would also facilitate the implementation of the Energov and NOVUS Agenda software systems, which the City is currently configuring.

On October 7, 2015, the Land Use and Development Committee recommended approval of the proposed ordinance amendments.

The Administration recommends that the City Commission: 1) accept the recommendation of the Land Use and Development Committee via separate motion; and 2) approve the attached ordinances at First Reading and schedule a Second Reading Public Hearing for October 28, 2015.

Advisory Board Recommendation:

The Planning Board is scheduled to review the proposed ordinances on October 27, 2015.

Financial Information:

Source of Funds:		Amount	Account
<div style="border: 1px solid black; width: 80px; height: 80px; margin: 0 auto; text-align: center; vertical-align: middle;">OBPI</div>	1		
	2		
	3		
	Total		


Financial Impact Summary:

In accordance with Charter section 5.02, which requires that the "City of Miami Beach shall consider the long-term economic impact (at least 5 years) of proposed legislative actions," this shall confirm that the City Administration evaluated the long-term economic impact (at least 5 years) of this proposed legislative action, and determined that there will be no measurable impact on the City's budget.

City Clerk's Office Legislative Tracking:

Thomas Mooney

Sign-Offs:

Department Director	Assistant City Manager	City Manager
		

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AGENDA ITEM RSL
DATE 10-14-15

MIAMI BEACH

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

MEMO #

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: October 14, 2015

FIRST READING

SUBJECT: **Consolidation and Standardizing of Notification Procedures Ordinance
Rehearing and Appeal Procedures Ordinance**

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, BY CREATING SECTION 118-8 ENTITLED "NOTICE PROCEDURES" AT CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," IN ORDER TO CONSOLIDATE AND STANDARDIZE THE NOTICE PROVISIONS FROM THE VARIOUS SUBSECTIONS OF THE LAND DEVELOPMENT CODE IN ONE SECTION; AMENDING AND/OR STRIKING THE VARIOUS NOTICE PROVISIONS FROM ARTICLE II "BOARDS," DIVISION 5 "BOARD OF ADJUSTMENT" AT SECTION 118-134; ARTICLE IV "CONDITIONAL USE PROCEDURE" AT SECTION 118-193; ARTICLE VI "DESIGN REVIEW PROCEDURES" AT SECTION 118-254; ARTICLE X "HISTORIC PRESERVATION" DIVISION 3 "ISSUANCE OF CERTIFICATE OF APPROPRIATENESS/CERTIFICATE TO DIG/CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION" AT SECTION 118-563; AND DIVISION 4 "DESIGNATION" AT SECTION 118-591; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CONSOLIDATING AND STANDARDIZING THE REHEARING AND APPEAL PROCEDURES, INCLUDING ADMINISTRATIVE APPEALS AND QUASI-JUDICIAL APPLICATIONS BEFORE HISTORIC PRESERVATION BOARD, BOARD OF ADJUSTMENT, PLANNING BOARD, AND DESIGN REVIEW BOARD, BY AMENDING THE FOLLOWING SECTIONS: CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," AT SECTION 118-9, ENTITLED "APPEAL AND REHEARING PROCEDURES"; AND AMENDING ARTICLE II "BOARDS" DIVISION 3 "DESIGN REVIEW BOARD" AT SECTION 118-71; DIVISION 5 "BOARD OF ADJUSTMENT" AT SECTIONS 118-134, 118-136, 118-137, 118-138; ARTICLE IV "CONDITIONAL USE PROCEDURE" AT SECTIONS 118-

193, AND 118-197; ARTICLE VI “DESIGN REVIEW PROCEDURES” AT SECTIONS 118-258, 118-260, 118-261, 118-262, 118-263; ARTICLE VIII “PROCEDURES FOR VARIANCES AND ADMINISTRATIVE APPEALS” AT SECTIONS 118-352 and 118-358; ARTICLE IX “NONCONFORMANCES” AT SECTIONS 118-395 AND 118-397; ARTICLE X “HISTORIC PRESERVATION”; DIVISION 2 “HISTORIC PRESERVATION BOARD REVIEW OF PROJECTS” AT SECTIONS 118-532, 118-536, AND 118-537; DIVISION 3 “ISSUANCE OF CERTIFICATE OF APPROPRIATENESS/CERTIFICATE TO DIG/CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION” AT SECTIONS 118-563, 118-564, 118-565; DIVISION 5 “SINGLE-FAMILY AD VALOREM TAX EXEMPTION” AT SECTION 118-609; CHAPTER 142, “ZONING DISTRICTS AND REGULATIONS” AT ARTICLE II “DISTRICT REGULATIONS,” DIVISION 2 “RS-1,RS-2, RS-3, RS-4 SINGLE FAMILY RESIDENTIAL DISTRICTS AT SECTION 142-108 IN ORDER TO REMOVE ANY CONFLICTS WITH NEWLY CREATED SECTION 118-9; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission accept the recommendation of the Land Use and Development Committee via separate motion; and approve each of the attached ordinances at First Reading, and schedule a Second Reading Public Hearing for October 28, 2015.

BACKGROUND

On June 10, 2015, at the request of Commissioner Deede Weithorn, the City Commission referred this item to both the Land Use and Development Committee and the Planning Board (Item C4F).

On October 7, 2015, the Land Use and Development Committee recommended approval of the proposed ordinance amendments.

The Planning Board is scheduled to review the proposed ordinances on October 27, 2015.

ANALYSIS

The City of Miami Beach is in the process of updating the City's procedures and on-line capabilities through the use of Energov and NOVUS Agenda. These systems will allow for an online collaboration in processing board applications and creating agendas for all City Commission and quasi-judicial board meetings. As part of this initiative, City departments are in the process of configuring the workflows which include the type of notice needed for the type of application being heard – whether there is a public hearing notice requirement, whether mailed notice or posting is required, and the time tables for producing said notice.

Currently, the notice provisions for each board are located throughout the code, and are not easy to find. Often, the notice provision is subsumed within a larger ordinance, and differ from board to board making it very difficult for the general public to understand the

type of notice they can expect. The administration is recommending that the various notice provisions contained in the Land Development Code be consolidated in one ordinance, in one section of the Code, and be uniform for the various land use board applications. This would also facilitate the implementation of the Energov and NOVUS Agenda software systems and ensure that staff does not err in providing proper notice.

The notice requirements have not changed in the proposed **Consolidation and Standardizing of Notification Procedures Ordinance**, with the exception of the inclusion of additional language regarding requirements for posting, as noted in the underlined section below:

118-8 Notice Procedures.

Applications requiring notice shall be noticed in accordance with the following provisions, unless otherwise more specifically provided for in these Land Development Regulations:

- (a) *Advertisement.* At least 30 days prior to the public hearing date, a description of the request, and the date, time and place of such hearing shall be noticed in a newspaper of general circulation. Applicant shall pay advertisement fee as applicable.
- (b) *Mail Notice.* At least 30 days prior to the public hearing date, a description of the request, and the date, time and place of such hearing shall be given by mail to the owners of record of land lying within 375 feet of property. Applicants shall submit all information and certifications necessary to meet this requirement, as determined by the department. Additionally, courtesy notice shall also be given to any state nonprofit community organization which has requested of the director in writing to be notified of board hearings. Applicant shall pay mailing fees as applicable.
- (c) *Posting.* At least 30 days prior to the public hearing date, a description of the request, and the date, time and place of such hearing shall be posted on the property. Such posting shall be a minimum dimension of 11 inches by 17 inches, and located in a visible location at the front of the property, and shall not be posted on a fence or wall that would be obstructed by the operation of a gate. The applicant shall pay posting fee as applicable.

Similarly, the rehearing and appeal procedures are also scattered throughout the City Code, are difficult to find, and are inconsistent in listing the requirements for filing such an application. The proposed **Rehearing and Appeal Procedures Ordinance** has been organized as follows:

Sec. 118-9 – Rehearing and appeal procedures.

(a) *Rehearings*

- (1) *Decisions eligible for a rehearing*
- (2) *Eligible rehearing filing requirements*
 - A. *Timeframe to file.*
 - B. *Eligible parties*
 - C. *Application requirements.*
 - D. *Notice requirements.*
- (3) *Actions by the board.*
- (4) *Stay of work.*

- (5) Tolling.
- (b) *Administrative appeal procedures*
 - (1) *Decisions eligible for administrative appeals*
 - (2) *Eligible appeal filing requirements:*
 - A. *Timeframe to file:*
 - B. *Eligible parties*
 - C. *Application requirements.*
 - D. *Notice requirements.*
 - (3) *Outside Council to the Planning Department.*
 - (4) *Actions by the board.*
 - (5) *Stay of work and proceedings on appeal.*
 - (6) *Tolling.*
- (c) *Appeals of land use board applications.*
 - (1) *Decisions ineligible for appeal except to circuit court*
 - (2) *Decisions eligible for appeal*
 - (3) *Eligible appeal filing requirements*
 - A. *Timeframe to file.*
 - B. *Eligible parties*
 - C. *Application requirements:*
 - D. *Notice requirements.*
 - (4) *Action.*
 - (5) *Stay of work and proceedings on appeal.*

The substance of the regulations have not changed in the proposed ordinance, with the following noted exceptions:

1. Section 118-193. – Applications for conditional uses. Currently the timeframe to obtain a building permit for an adult congregate living facility is 12 months, and any the Planning Board may only approve an extension of time for up to three months. The Ordinance changes the timeframe to obtain a building permit to 18 months, and an additional 12 months for an extension of time, in order be consistent with all other conditional use applications. Also, an appeal of an extension of time for an ALF currently is required to go to the City Commission, and the proposed ordinance eliminates this provision; defaulting instead to the standard appeal procedures of a Planning Board application.
2. Section 118-537. – Rehearings and appeals. The proposed ordinance relocates this entire section into the newly incorporated Section 118-9. – Rehearing and appeal procedures.
3. To keep all appeals consistent as to timing, an appeal of an HPB administrative decision from 10 days to 15 days to be consistent with all other administrative appeals to the DRB.
4. Under the sections relating to hiring of outside counsel, we have added language to include the ability to use another attorney from the City Attorney's office that would be independent from the attorney presiding over the Boards.

FISCAL IMPACT

In accordance with Charter Section 5.02, which requires that the "City of Miami Beach shall consider the long term economic impact (at least 5 years) of proposed legislative actions," this shall confirm that the City Administration City Administration evaluated the long term economic impact (at least 5 years) of this proposed legislative action. The proposed Ordinance is not expected to have a negative fiscal impact upon the City.

CONCLUSION

The Administration recommends that the City Commission: 1) accept the recommendation of the Land Use and Development Committee via separate motion; and 2) approve the attached ordinances at First Reading and schedule a Second Reading Public Hearing for October 28, 2015.

JLM/SMT/TRM/MAB

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CONSOLIDATION AND STANDARDIZING OF NOTIFICATION PROCEDURES

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CREATING SECTION 118-8 ENTITLED "NOTICE PROCEDURES" AT CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," IN ORDER TO CONSOLIDATE AND STANDARDIZE THE NOTICE PROVISIONS FROM THE VARIOUS SUBSECTIONS OF THE LAND DEVELOPMENT CODE IN ONE SECTION; AMENDING AND/OR STRIKING THE VARIOUS NOTICE PROVISIONS FROM ARTICLE II "BOARDS," DIVISION 5 "BOARD OF ADJUSTMENT" AT SECTION 118-134; ARTICLE IV "CONDITIONAL USE PROCEDURE" AT SECTION 118-193; ARTICLE VI "DESIGN REVIEW PROCEDURES" AT SECTION 118-254; ARTICLE X "HISTORIC PRESERVATION" DIVISION 3 "ISSUANCE OF CERTIFICATE OF APPROPRIATENESS/CERTIFICATE TO DIG/CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION" AT SECTION 118-563; AND DIVISION 4 "DESIGNATION" AT SECTION 118-591; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach is in the process of updating the City's procedures and on-line capabilities through the use of Energov and NOVUS Agenda, which systems, will allow for an online collaboration in processing board applications and creating agendas for all City Commission and quasi-judicial board meetings; and

WHEREAS, as part of this initiative, City departments are in the process of configuring the workflows which include the type of notice need for the type of application being heard – whether there is a public hearing notice requirement, whether mailed notice or posting is required, and the time tables for producing said notice; and,

WHEREAS, Currently, the notice provisions for each board are located throughout the code, and are not easy to find. Often, the notice provision is subsumed within a larger ordinance, and differ from board to board making it very difficult for the general public to understand the type of notice they can expect.

WHEREAS, in an effort to foster transparency and facilitate ease of use, the City Planning Department has requested that the various notice provisions contained in the Land Development Code, for each type of application is consolidated in one ordinance, in one section of the Code, and be uniform for the various land use board applications; and

WHEREAS, consolidation would also facilitate the implementation of the Energov and NOVUS Agenda software systems and ensure that staff does not err in providing proper notice.

WHEREAS, the notice requirements have not changed in the draft **Consolidation and Standardizing of Notification Procedures Ordinance**, with the exception of the inclusion of

additional language regarding requirements for posting, which language ensures that the posting is clearly visible from the street.

WHEREAS, the amendment set forth below is necessary to accomplish the objectives identified above.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA

SECTION 1. That Chapter 118, "Administrative and Review Procedures", Article I "In General", Section 118-8 "Notice Procedures for Quasi-Judicial, Public Hearing Land Use Board Actions" hereby established as follows:

118-8 Notice Procedures For Quasi-Judicial, Public Hearing Quasi-Judicial Land Use Board Actions.

Quasi-judicial, public hearing, applications for land use board actions (Board of Adjustment, Design Review Board, Historic Preservation Board, and Planning Board) that require notice shall be noticed in accordance with the following provisions, unless otherwise more specifically provided for in these Land Development Regulations, and shall pay a fee pursuant to Section 118-7, and Appendix A:

- (a) *Advertisement.* At least 30 days prior to the quasi-judicial, public hearing date, a description of the request, and the date, start time of the meeting and location of the hearing shall be noticed in a newspaper of general circulation. Applicant shall be required to pay all associated costs relating to the advertisement.
- (b) *Mail Notice.* At least 30 days prior to the quasi-judicial, public hearing date, a description of the request, and the date, start time of the meeting, and location of the hearing shall be given by mail to the owners of record of land lying within 375 feet of the property subject to the application. Applicants shall submit all information and certifications necessary to meet this requirement, as determined by the department. Additionally, courtesy notice shall also be given to any Florida nonprofit community organization which has requested of the director in writing to be notified of board hearings. Applicant shall be required to pay all associated costs relating to the mailed notice.
- (c) *Posting.* At least 30 days prior to the quasi-judicial, public hearing date, a description of the request, and the date, time and place of such hearing shall be posted on the property. Such posting shall be a minimum dimension of 11 inches by 17 inches, and located in a visible location at the front of the property, and shall not be posted on a fence or wall that would be obstructed by the operation of a gate. Applicant shall be required to pay all associated costs relating to the posting.

SECTION 2. That Chapter 118, "Administrative and Review Procedures", Article II "Boards", Division 5 "Board of Adjustment" at Sec. 118-134, "Applications", is hereby amended as follows:

Sec. 118-134. – Applications. Notification of hearings.

Quasi-judicial public hearing applications shall be submitted to the planning department, which shall prepare a report and recommendation for consideration by the board of adjustment. The board of adjustment shall not vary or modify any regulation or provision of these land

~~development regulations or hear an appeal of an administrative decision until a public hearing has been held. At least 30 days prior to the public hearing date, a description of the request, and the date, time and place of such hearing shall be (i) posted on the property, (ii) advertised in a paper of general paid circulation in the community, and (iii) given by mail to the owners of record of land lying within 375 feet of the property. This mailed notification requirement shall be the responsibility of the applicant. Where the application is for an appeal of an administrative decision the preceding information shall be supplemented by an explanation of what is being appealed.~~

SECTION 3. That Chapter 118, "Administrative and Review Procedures", Article IV "Conditional Use Procedures," at Section 118-193, "Applications for conditional uses", is hereby amended as follows:

Sec. 118-193. - Applications for conditional uses.

~~Quasi-judicial, public hearing a~~Applications for approval of a conditional use shall be submitted to the planning department, which shall prepare a report and recommendation for consideration by the planning board, and when required, by the city commission. ~~Within a reasonable time, but in no instance less than 30 days after receipt of a completed application, the board shall hold a public hearing, at which parties in interest and citizens shall have an opportunity to be heard. At least 30 days prior to the public hearing date, a description of the request, and the date, time and place of such hearing shall be (i) posted on the property, (ii) advertised in a paper of general paid circulation in the community, and (iii) given by mail to the owners of record of land lying within 375 feet of the property. This mailed notification requirement shall be the responsibility of the applicant.~~

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SECTION 4. That Chapter 118, "Administrative and Review Procedures", Article VI "Design Review Procedures" at Section 118-254, "Decision of design review board", is hereby amended as follows:

Sec. 118-254. - Decision of design review board.

- (a) The design review board shall consider each application at a quasi-judicial, public hearing, at which the applicant and interested persons shall have an opportunity to express their opinions, present evidence and rebut all evidence presented. The planning department, shall provide the applicant with advance notice of the hearing date and time, including a copy of the agenda and the recommendation of the planning department.
- (b) ~~At least 30 days prior to the public hearing date, a description of the request, and the date, time and place of such hearing shall be (i) posted on the property, (ii) advertised in a paper of general paid circulation in the community, and (iii) given by mail to the owners of record of land lying within 375 feet of property. The mail notification requirement shall be the responsibility of the applicant. Additionally, courtesy notice shall also be given to any state nonprofit community organization which has requested of the director in writing to be notified of board hearings. The board shall approve, approve with conditions or deny applications.~~

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SECTION 5. That Chapter 118, "Administrative and Review Procedures", Article X "Historic Preservation", Division 3 " Issuance of Certificate of Appropriateness/Certificate to Dig/Certificate of Appropriateness for Demolition" at Section 118-563, "Review procedure", is hereby amended as follows:

Sec. 118-563. - Review procedure.

- (a) All quasi-judicial public hearing applications involving demolition, new construction, alteration, rehabilitation, renovation, restoration or any other physical modification of any building, structure, improvement, significant landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district shall be placed on the next available agenda of the historic preservation board for its review and consideration after the date of receipt of a completed application.
- ~~(b) The board shall hold a public hearing regarding each application in accordance with the notice and hearing procedures set forth in subsection (c) of this section. The board shall approve, deny, approve with conditions or continue action on all applications for a certificate of appropriateness.~~
- ~~(c) All applications for a certificate of appropriateness for the demolition or partial demolition of any building, structure, improvement, significant landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district and all applications for a certificate of appropriateness for new building construction, alteration, rehabilitation, renovation, restoration or any other physical modification of any building, structure, improvement, significant landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district shall only be considered by the board following a public hearing. At least 30 days prior to the public hearing date, a description of the request with the date, time, and place of such hearing shall be (i) posted on the property, (ii) advertised in a paper of general paid circulation in the community, and (iii) be given by mail to the owners of record of land lying within 375 feet of the property. The mail notification requirement shall be the responsibility of the applicant.~~
- (b) The historic preservation board shall decide, based upon the criteria set forth in subsection 118-564(f)(4), whether or not to issue a certificate of appropriateness for demolition. A demolition permit shall not be issued until all of the following criteria are satisfied, except as permitted under subsection 118-564(f)(6):

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SECTION 6. That Chapter 118, "Administrative and Review Procedures", Article X "Historic Preservation", Division 4, "Designation" at Section 118-591, "Historic designation procedure", is hereby amended as follows:

Sec. 118-591. - Historic designation procedure.

* * *

- (f) ~~Public hearing; notification. A quasi-judicial public hearing on a proposed historic preservation designation shall be conducted by the historic preservation board after the date a designation report has been filed. The property owners of record within 375 feet of the property proposed for designation shall be notified by mail of the public hearing at least 30 days in advance of the hearing. This notification requirement shall be the responsibility of the applicant.~~
- (g) Designation procedures initiated by owners of single-family homes in single-family districts. Notwithstanding the above, the following shall apply to any request by property owners for the individual designation of their single-family homes as historic structures:

* * *

- (2) ~~Reserved. Public notice requirements. At least 30 days prior to the public hearing date for the subject designation, a description of the request with the time and place of the public hearing, shall be advertised in a paper of general paid circulation in the community.~~

* * *

SECTION 7. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 8. REPEALER.

All ordinances or part of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 9. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 10. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this ____ day of _____, 2015.

Philip Levine, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading:
Second Reading:

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes deleted language

[Sponsored by Commissioner Deede Weithorn]

Rehearing and Appeal Procedures

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CONSOLIDATING AND STANDARDIZING THE REHEARING AND APPEAL PROCEDURES, INCLUDING ADMINISTRATIVE APPEALS AND QUASI-JUDICIAL APPLICATIONS BEFORE HISTORIC PRESERVATION BOARD, BOARD OF ADJUSTMENT, PLANNING BOARD, AND DESIGN REVIEW BOARD, BY CREATING THE FOLLOWING SECTION: CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," AT SECTION 118-9, ENTITLED "APPEAL AND REHEARING PROCEDURES"; AND AMENDING ARTICLE II "BOARDS" DIVISION 3 "DESIGN REVIEW BOARD" AT SECTION 118-71; DIVISION 5 "BOARD OF ADJUSTMENT" AT SECTIONS 118-134, 118-136, 118-137, 118-138; ARTICLE IV "CONDITIONAL USE PROCEDURE" AT SECTIONS 118-193, AND 118-197; ARTICLE VI "DESIGN REVIEW PROCEDURES" AT SECTIONS 118-258, 118-260, 118-261, 118-262, 118-263; ARTICLE VIII "PROCEDURES FOR VARIANCES AND ADMINISTRATIVE APPEALS" AT SECTIONS 118-352 and 118-358; ARTICLE IX "NONCONFORMANCES" AT SECTIONS 118-395 AND 118-397; ARTICLE X "HISTORIC PRESERVATION"; DIVISION 2 "HISTORIC PRESERVATION BOARD REVIEW OF PROJECTS" AT SECTIONS 118-532, 118-536, AND 118-537; DIVISION 3 "ISSUANCE OF CERTIFICATE OF APPROPRIATENESS/CERTIFICATE TO DIG/CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION" AT SECTIONS 118-563, 118-564, 118-565; DIVISION 5 "SINGLE-FAMILY AD VALOREM TAX EXEMPTION" AT SECTION 118-609; CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS" AT ARTICLE II "DISTRICT REGULATIONS," DIVISION 2 "RS-1,RS-2, RS-3, RS-4 SINGLE FAMILY RESIDENTIAL DISTRICTS AT SECTION 142-108 IN ORDER TO REMOVE ANY CONFLICTS WITH NEWLY CREATED SECTION 118-9; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, The City of Miami Beach is in the process of updating the City's procedures and on-line capabilities through the use of Energov and NOVUS Agenda, which systems, will allow for an online collaboration in processing board applications and creating agendas for all city commission and quasi-judicial board meetings; and

WHEREAS, As part of this initiative, City departments are in the process of configuring the workflows which include the type of notice need for the type of application being heard – whether there is a public hearing notice requirement, whether mailed notice or posting is required, and the time tables for producing said notice; and

WHEREAS, the notice provisions for each board are located throughout the code, and are not easy to find, and the City is simultaneously proposing to amend Chapter 118 to create 118-8 to consolidate all notice procedures for land use boards in one, easy to read, and utilize section of the Code; and

WHEREAS, the City intends to follow the same process with notice for and process of appeal or rehearing of land use board quasi-judicial proceedings; and

WHEREAS, this consolidation would also facilitate the implementation of the Energov and NOVUS Agenda software systems and ensure that staff does not err in providing proper notice and provide applicants, as well as the public with an easier to understand appellate process; and

WHEREAS, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

- **SECTION 1.** That Chapter 118 “Administration And Review Procedures,” Article I “In General” at Section 118-9, “Rehearing and appeal procedures”, is hereby established, as follows:

*

*

*

Sec. 118-9 ~~Reserved.~~ Rehearing and appeal procedures.

The following requirements shall apply to all rehearings and appeals by land development boards unless otherwise more specifically provided for in these land development regulations, and applicable fees and costs shall be paid to the City as required under section 118-7 and Appendix A to the City Code. As used herein, “land use board(s)” shall mean the board of adjustment, design review board, historic preservation board and planning board.

(a) Rehearings.

(1) The types of land use board decisions eligible for a rehearing are as follows:

- A. Historic preservation board. historic preservation board order relating to the issuance of a Certificate of Appropriateness, dig or demolition. Bert J. Harris rehearing is separately addressed at subsection (a)(6), below.
- B. Design review board. design review board order relating to design review approval, only.
- C. Except as delineated above, rehearings are not available for any other application, or for any other land use board action.
- D. There shall only be allowed one rehearing, per application, although multiple persons may participate in or request the rehearing.

(2) Eligible rehearing applications shall be filed in accordance with the process as outlined in subsections A through D below:

- A. Timeframe to file.** A petition for rehearing shall be submitted to the planning director on or before the 15th day after the rendition of the board order. Rendition shall be the date upon which a signed written order is executed by the board’s clerk.

B. Eligible parties. Parties eligible to file an application for rehearing are limited to:

- (i) Original applicant(s)
- (ii) The city manager on behalf of the city administration
- (iii) An affected person, which for purposes of this section shall mean either a person owning property within 375 feet of the applicant's project reviewed by the board, or a person that appeared before the board (directly or represented by counsel), and whose appearance is confirmed in the record of the board's public hearing(s) for such project.
- (iv) Miami Design Preservation League
- (v) Dade Heritage Trust

C. Application requirements. The petition to the board shall be in a writing that contains all facts, law and argument, by or on behalf of an eligible party, and demonstrate the following:

- (i) Newly discovered evidence which is likely to be relevant to the decision of the board, or
- (ii) The board has overlooked or failed to consider something which renders the decision issued erroneous.

D. Notice requirements. All land use board applications eligible to request a rehearing are subject to the same noticing requirements as an application for a public hearing, in accordance with section 118-8. The rehearing applicant shall be responsible for all associated costs and fees.

(3) **Outside Counsel to the Planning Department.** In the event of a rehearing to the applicable land use board, the planning director may engage the services of an attorney, or utilize a separate, independent, attorney from the city attorney's office, for the purpose of representing the administrative officer and planning staff during the rehearing.

(4) **Actions by the applicable land use board.** After the rehearing request is heard, the applicable land use board may take the actions outlined in subsections (i) through (v) below:

- (i) Rehear or not rehear a case,
- (ii) If the decision is to rehear the application, the board may take additional testimony,
- (iii) Reaffirm their previous decision,
- (iv) Issue a new decision, and/or
- (v) Reverse or modify the previous decision,

(5) **Stay of work.** A rehearing application to the applicable land use board stays all work on the premises and all proceedings in furtherance of the board action; however, nothing herein shall prevent the issuance of building permits or partial building permits necessary to prevent imminent peril to life, health or property, as determined by the building official.

(6) **Tolling.** See tolling provision under (b)(6).

- (7) **Rehearings due to Bert J. Harris Claim.** A petition for rehearing pursuant to a Harris Act claim, the petition shall include the following documentation which shall be submitted no later than 15 days after the submission of the petition for rehearing:

A. A bona fide, valid appraisal supporting the claim of inordinate burden and demonstrating the loss, or expected loss, in fair market value to the real property as a result of the board's action;

B. All factual data described in subsection 118-564(c); provided, however, in the event all or any portion of the factual data was available to the applicant prior to the conclusion of the public hearing before the historic preservation or joint design review board/historic preservation board and the applicant failed to furnish same to the board's staff as specified in subsection 118-564(c), then, the board may, in its discretion, deny the applicant's request to introduce such factual data;

C. A report prepared by a licensed architect or engineer analyzing the financial implications of the requirements, conditions or restrictions imposed by the board on the property or development proposed by the applicant with respect to which the applicant is requesting a rehearing;

D. A report prepared by a licensed architect or engineer analyzing alternative uses for the real property, if any;

E. A report prepared by a licensed architect or engineer determining whether, as a result of the board action, the owner is permanently unable to attain the reasonable, investment-backed expectation for the existing use of the real property or a vested right to a specific use of the real property with respect to the real property as a whole, or that the property owner is left with existing or vested uses that are unreasonable; and

F. A report prepared by a licensed architect or engineer addressing the feasibility, or lack of feasibility, of effectuating the board's requirements, conditions or restrictions and the impact of same on the existing use of the real property or a vested right to a specific use of the real property.

(b) Administrative appeal procedures:

(1) Decisions eligible for administrative appeals:

G. Planning Board Conditional Use Applications. An eligible party may appeal a decision of the planning director to the planning board regarding a decision reached on a conditional use application.

H. Board of Adjustment administrative appeals.

(i) With the exception of those items expressly identified within this section for appeals of administrative decisions specifically delegated to the other land use boards, the board of adjustment shall have the power and duty to hear and decide appeals when it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these land development regulations.

(ii) An administrative appeal pursuant to subsection 118-397(b)

I. **Historic preservation board administrative appeals.** An eligible party may appeal a decision of the planning director regarding the following to the historic preservation board:

- (i) An administrative appeal pursuant to subsection 118-563(d)(1) or (3).
- (ii) An administrative appeal pursuant to subsection 118-565, or
- (iii) An administrative appeal pursuant to section 118-609.

J. **design review board administrative appeals.** An eligible party may appeal a decision of the planning director regarding the following administrative determinations to the design board:

- (i) An administrative appeal pursuant to subsection 118-395.
- (ii) An administrative appeal pursuant to subsection 118-260, or
- (iii) An administrative appeal pursuant to subsection 142-108.

(2) **Eligible administrative appeals shall be filed in accordance with the process as outlined in subsections A through D below:**

A. Timeframe to file:

- (i) Planning board. A petition for an administrative appeal shall be submitted to the planning director published a decision on the conditional use application on or within 15 days after the date on which the director or designee published a decision reached on a Conditional Use application. For this section of the code, published shall mean the ruling being released, in writing, and distributed by the planning director, or his designee.
- (ii) Board of adjustment. A petition for an administrative appeal shall be submitted to the planning director on or before the 30th day after the date of the publication of a refusal of a permit by, notice of violation, ruling, decision or determination of, the building official or other administrative official.
- (iii) Historic preservation board. A petition for an administrative appeal shall be submitted to the planning director on or before the 15th day after the date on which the director or designee published a decision on applications submitted pursuant to subsection 118-563(d)(1), pertaining to ground level additions to existing structures, and subsection 118-563(d)(3), pertaining to façade and building restoration.
- (iv) Design review board. The following timeframes shall apply for administrative appeals shall be submitted to the planning director on or before the 15th day after the date on which the decision is published pursuant to either subsections 118-395 or 142-108.

B. **Eligible parties.** Parties eligible to file an application for an administrative appeal are limited to the following:

- (i) Original applicant / property owner

- (ii) The city manager on behalf of the city administration, except for administrative appeals pursuant to sections 118-260, 118-395, and 142-108.
- (iii) An affected person, which for purposes of this section shall mean a person owning property within 375 feet of the site or application which is the subject of the administrative appeal, except for administrative appeals pursuant to sections 118-260, 118-375, and 118-260.
- (iv) Miami Design Preservation League, except for administrative appeals pursuant to sections 118-260, 118-375, and 118-260.
- (v) Dade Heritage Trust, except for administrative appeals pursuant to sections 118-260, 118-375, and 118-260.

C. Application requirements. The following shall be required for all applications for administrative appeals:

- (i) The petition to the board shall be in writing; and
- (ii) Shall be by or on behalf of an eligible party; and
- (iii) shall set forth the factual, technical, architectural, historic and legal bases for the appeal; and
- (iv) The party filing the appeal shall be responsible for providing all plans and exhibits, subject to planning department procedures, as well as the duplication of all pertinent plans and exhibits.

D. Notice requirements. All land use board applications eligible to request a rehearing are subject to the same noticing requirements as an application for a public hearing, in accordance with section 118-8. The rehearing applicant shall be responsible for all associated costs and fees.

- (3) **Outside Counsel to the Planning Department.** In the event of an administrative appeal to the applicable land use board, the planning director may engage the services of an attorney, or utilize a separate, independent, attorney from the city attorney's office, for the purpose of representing the administrative officer who made the decision that is the subject of the appeal.
- (4) **Board Decisions on Administrative Appeals.** The applicable land use board may, upon appeal, reverse or affirm, wholly or partly, the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of five members of the applicable land use board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the applicable land use board is required to pass under these land development regulations.

No permit shall be issued for work prior to expiration of the appeal period or final disposition of any appeal.

- (5) **Stay of work and proceedings on appeal.** An appeal to the applicable board stays all work on the premises and all proceedings in furtherance of the action appealed from, unless one of the exceptions below applies:

- A. The official from whom the appeal was taken shall certify to the applicable land use board that, by reason of facts stated in the certificate, a stay would cause

imminent peril to life or property. In such a case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the board or by a court of competent jurisdiction, upon application, with notice to the officer from whom the appeal is taken and for good cause shown; or

B. If the appeal arises from a quasi-judicial public hearing before a land use board, the hearing before the board to which application was made may proceed, provided any approval does not vest. The final order shall contain appropriate conditions to stay its effectiveness until the final resolution of all administrative and court proceedings. No building permit, or certificate of occupancy, or business tax receipt, dependent upon such hearing approval, shall be issued until the final resolution of all administrative and court proceedings as certified by the city attorney. The applicant for such land use board hearing shall hold the city harmless and agree to indemnify the city from any liability or loss resulting from such proceedings. Notice of the final resolution of administrative and court proceedings shall be provided as required for notice of hearings under these land development regulations.

C. Notwithstanding the foregoing, an appeal to the applicable land use board, city commission, historic preservation special master or court, or other challenge to an administrative official's decision, shall neither stay the issuance of any building permit, full building permit or phased building permit nor stay the running of the required time period set by board order or these land development regulations to obtain a full building permit or phased building permit.

(6) Tolling during all appeals. Notwithstanding the provisions of Section 118-193(2), 118-258(c), 118-532(f), or 118-564(11), in the event the original decision (board order) of the applicable board, is timely appealed, the applicant shall have 18 months, or such lesser time as may be specified by the board, from the date of final resolution of all administrative and/or court proceedings to obtain a full building permit, a certificate of occupancy, a certificate of use or a certificate of completion, whichever occurs first. This tolling provision shall only be applicable to the original approval of the board and shall not apply to any subsequent requests for revisions or requests for extensions of time.

(c) Appeals of land use board applications.

(1) Decisions of the following shall be final, and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari:

- A. Planning board.
- B. Board of adjustment.
- C. Design review board, with respect to variance decisions and administrative appeals, only.
- D. Historic preservation board, with respect to variance decisions and administrative appeals, only.
- E. Historic preservation special master.

(2) Decisions from the following may be appealed as noted:

A. Historic preservation board.

- (i) Any applicant requesting an appeal of an approved application from the historic preservation board (for a Certificate of Appropriateness only) shall be made to the historic preservation special master, except that a land use board order granting or denying a request for rehearing shall not be reviewed by the Historic preservation special master.
- (ii) The historic preservation special master shall meet the following requirements:
 - a. Historic preservation special master qualifications. Historic preservation special masters appointed to hear appeals pursuant to this subsection shall be attorneys who are members in good standing of the Florida Bar and have expertise in the area of historic preservation.
 - b. Historic preservation special master terms. Historic preservation special masters shall serve terms of three years, provided however, that they may be removed without cause upon a majority vote of the city commission. Compensation for historic preservation special masters shall be determined by the city commission.

B. Design review board. Any applicant requesting an appeal of an approved application from the design review board (for design review approval only) shall be made to the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the city commission.

(3) Eligible appeals of the design review board or historic preservation board shall be filed in accordance with the process as outlined in subsections (a) through (d) below:

A. **Timeframe to file.** A petition for an appeal shall be submitted to city clerk on or before the 20th day after the rendition of the board order. Rendition shall be the date upon which a signed written order is executed by the board's clerk.

B. **Eligible parties** to file an application for an appeal are limited to the following:

- (i) Original applicant
- (ii) The city manager on behalf of the city administration
- (iii) An affected person, which for purposes of this section shall mean either a person owning property within 375 feet of the applicant's project reviewed by the board, or a person that appeared before the board (directly or represented by counsel), and whose appearance is confirmed in the record of the board's public hearing(s) for such project.
- (iv) Miami Design Preservation League
- (v) Dade Heritage Trust

C. **Application requirements:**

- (i) The appeal shall be in writing, and include all record evidence, facts, law and arguments necessary for the appeal (this appellate document shall be called the "brief"); and
- (ii) shall include all applicable fees, as provided in appendix A; and
- (iii) shall be by or on behalf of a named appellant(s); and
- (iv) shall state the factual bases and legal argument in support of the appeal; and

- (v) a full verbatim transcript of all proceedings which are the subject of the appeal shall be provided by the party filing the petition, along with a written statement identifying those specific portions of the transcript upon which the party filing it will rely for purposes of the appeal. The verbatim transcript and written statement shall be filed no later than two weeks prior to the first scheduled public hearing to consider the appeal.

D. **Notice requirements.** All applications for an appeal of the design review board or historic preservation board are subject to the same noticing requirements as an application for a public hearing, in accordance with section 118-8. The appeal applicant shall be responsible for all associated costs and fees.

- (4) **Action.** In order to reverse, amend, modify, or remand amendment, modification, or rehearing the decision of the board, the city commission (for design review board appeals), and the historic preservation special master (for historic preservation board appeals of Certificates of Appropriateness, Dig or Demolition), shall find that the board did not comply with any of the following:

- (i) Provide procedural due process;
- (ii) Observe essential requirements of law; and
- (iii) Based its decision upon substantial competent evidence.

The decision on the appeal shall be set forth in writing, and shall be promptly mailed to all parties to the appeal. In order to reverse, or remand, a five-sevenths vote of the city commission is required for appeals of the design review board to the city commission.

- (5) **Stay of work and proceedings on appeal.** An appeal to the board stays all work on the premises and all proceedings in furtherance of the action appealed from, unless one of the exceptions below applies:

- (i) A stay would cause imminent peril to life or property. In such a case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the board or by a court of competent jurisdiction, upon application for good cause shown; or
- (ii) If the appeal arises from an application for development review board hearing or other approval requiring a hearing before a land use board, the hearing before the board to which application was made may proceed, provided any approval does not vest. The final order shall contain appropriate conditions to stay its effectiveness until the final resolution of all administrative and court proceedings. No building permit, or certificate of occupancy, or business tax receipt, dependent upon such hearing approval, shall be issued until the final resolution of all administrative and court proceedings as certified by the city attorney. The applicant for such land use board hearing shall hold the city harmless and agree to indemnify the city from any liability or loss resulting from such proceedings. Notice of the final resolution of administrative and court proceedings shall be provided as required for notice of hearings under these land development regulations. Notwithstanding the foregoing, an appeal to the board or court, or other challenge to an administrative official's decision, shall neither stay the issuance of any building permit, full building permit or phased building permit nor stay the running of the required time period set by board order or these land development regulations to obtain a full building permit or phased building permit.

Section 2. That Chapter 118, "Administration And Review Procedures," Article II "Boards", Division 3 "Design Review Board, at Section 118-71, "Powers and Duties", is hereby amended, as follows:

Sec. 118-71. - Powers and duties.

The design review board shall have the following powers and duties:

* * *

- (5) To hear and decide appeals of the planning director ~~when deciding matters pursuant to section 118-260.~~

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SECTION 3. That Chapter 118, "Administration And Review Procedures," Article II "Boards," Division 5 "Board of Adjustment" at Section 118-134, "Notification of hearings", is hereby amended, as follows:

Sec. 118-134. – Reserved. Notification of hearings.

~~The board of adjustment shall not vary or modify any regulation or provision of these land development regulations or hear an appeal of an administrative decision until a public hearing has been held. At least 30 days prior to the public hearing date, a description of the request, and the date, time and place of such hearing shall be (i) posted on the property, (ii) advertised in a paper of general paid circulation in the community, and (iii) given by mail to the owners of record of land lying within 375 feet of the property. This mailed notification requirement shall be the responsibility of the applicant. Where the application is for an appeal of an administrative decision the preceding information shall be supplemented by an explanation of what is being appealed.~~

SECTION 4. That Chapter 118, "Administration And Review Procedures," Article II "Boards," Division 5 "Board of Adjustment," at Section 118-136, "Powers and duties", is hereby amended, as follows:

Sec. 118-136. - Powers and duties.

(a) The board of adjustment shall have the following powers and duties:

- (1) To hear and decide appeals pursuant to the procedural requirements of Section 118-9. ~~when it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these land development regulations with the exception of appeals pursuant to section 118-197 and section 118-262. In the event of an administrative appeal to the board of adjustment, the planning director may engage the services of an attorney for the purpose of representing the administrative officer who made the decision that is the subject of the appeal.~~

~~In exercising this power, the board of adjustment, may upon appeal, reverse or affirm, wholly or partly, the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring~~

~~vote of five members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass under these land development regulations.~~

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(b) The board of adjustment shall serve as the city's floodplain management board in reviewing applications for properties within its jurisdiction and shall have the authority to exercise all powers and perform all duties assigned to such board pursuant to section 54-31 et seq. and Resolution No. 93-20698, and in accordance with the procedures set forth therein as such ordinance and resolution may be amended from time to time. For the purposes of determining jurisdiction, the criteria in section 118-351(a) shall be utilized.

SECTION 5. That Chapter 118, "Administration And Review Procedures," Article II "Boards," Division 5 "Board of Adjustment," at Section 118-137, "Stay of work and proceedings on appeal", is hereby amended, as follows:

Sec. 118-137. Reserved.—Stay of work and proceedings on appeal.

~~(1) An appeal to the board of adjustment stays all work on the premises and all proceedings in furtherance of the action appealed from, unless one of the exceptions in subsection (2) applies.~~

~~(2) Exceptions.~~

~~(a) The official from whom the appeal was taken shall certify to the board of adjustment that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such a case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of competent jurisdiction, upon application, with notice to the officer from whom the appeal is taken and for good cause shown; or~~

~~(b) If the appeal arises from an application for development review board hearing or other approval requiring a hearing before a land use board, the hearing before the board to which application was made may proceed, provided any approval does not vest. The final order shall contain appropriate conditions to stay its effectiveness until the final resolution of all administrative and court proceedings. No building permit, or certificate of occupancy, or business tax receipt, dependent upon such hearing approval, shall be issued until the final resolution of all administrative and court proceedings as certified by the city attorney. The applicant for such land use board hearing shall hold the city harmless and agree to indemnify the city from any liability or loss resulting from such proceedings. Notice of the final resolution of administrative and court proceedings shall be provided as required for notice of hearings under these land development regulations.~~

~~(3) Notwithstanding the foregoing, an appeal to the board of adjustment or court, or other challenge to an administrative official's decision, shall neither stay the issuance of any building permit, full building permit or phased building permit nor stay the running of the required time period set by board order or these land development regulations to obtain a full building permit or phased building permit.~~

SECTION 6. That Chapter 118, "Administration And Review Procedures," Article II "Boards," Division 5 "Board of Adjustment," at Section 118-138, "Appeal of board of adjustment's decision", is hereby amended, as follows:

Sec. 118-138. Reserved. ~~Appeal of board of adjustment's decision.~~

~~The decision of the board of adjustment shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.~~

SECTION 7. That Chapter 118, "Administration And Review Procedures," Article IV "Conditional Use Procedures," at Section 118-193, "Applications for conditional uses", is hereby amended, as follows:

Sec. 118-193. - Applications for conditional uses.

Applications for approval of a conditional use shall be submitted to the planning department, which shall prepare a report and recommendation for consideration by the planning board, and when required, by the city commission.

- (1) Site plan required. Each application for a conditional use permit shall be accompanied by a site plan meeting the requirements of section 118-1, and such other information as may be required for a determination of the nature of the proposed use and its effect on the comprehensive plan, the neighborhood and surrounding properties.
- (2) Expiration of Orders of Planning Board ~~Time limitations.~~
 - a. An applicant shall have up to 18 months, or such lesser time as may be specified by the board, from the date of the board meeting at which a conditional use was granted to obtain a full building permit, a certificate of occupancy, a certificate of use or a certificate of completion, whichever occurs first. The foregoing 18-month time period, or lesser time period, includes the time period during which an appeal of the decision of the planning board may be filed. If the applicant fails to obtain a full building permit within 18 months, or such lesser time period as is specified, of the board meeting date at which a conditional use was granted and/or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, the conditional use shall be deemed null and void. Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the planning board, provided the applicant submits a request in writing to the planning and zoning director no later than 90 calendar days after the expiration of the original approval, showing good cause for such an extension. At the discretion of the planning director, an applicant may have up to 30 days (not to extend beyond 30 months from the date of original approval) to complete the building permit review process and obtain a full building permit, provided that within the time provided by the board to obtain a full building permit a valid full building permit application and plans have been filed with the building department, a building permit process number has been issued and the planning department has reviewed the plans and provided initial comments. ~~Notwithstanding the foregoing, in the event the original decision of the planning board, with respect to a conditional use request, is timely appealed, the applicant shall have 18 months, or such lesser time as may be specified by the board, from the date of final resolution of all administrative and/or court proceedings to obtain a~~

~~full building permit, a certificate of occupancy, a certificate of use or a certificate of completion, whichever occurs first. This tolling provision shall only be applicable to the original approval of the board and shall not apply to any subsequent requests for revisions or requests for extensions of time.~~

Please refer to 118-9 relating to appealed orders, and tolling.

~~b. Time limitations for adult congregate living facilities:~~

- ~~1. Approval of an a adult congregate living facility under the conditional use procedures shall become null and void if a building permit has not been issued within one year after the date of approval. Such conditional use shall become null and void if a certificate of occupancy, certificate of completion or an occupational license is not issued within one year after the building permit is issued.~~
- ~~2. When extenuating circumstances or compelling reasons prevent the applicant from complying with conditions of approval within the above stated time periods, the applicant may submit a request to the planning board which may approve one extension of time of up to three months to obtain a building permit, or one extension of time of up to six months to complete all construction work and obtain a certificate of occupancy, certificate of completion or occupational license.~~
- ~~3. The public notice requirements shall be satisfied by placing the request on the board's agenda. Appeal of the board's decision shall be to the city commission. A five-sevenths vote of the commission shall be required to overrule a decision of the planning board relating to an extension of time requested. The appeal shall be filed within 30 days of the date on which the board's decision is reached.~~

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SECTION 8. That Chapter 118, "Administration And Review Procedures," Article IV "Conditional Use Procedures," at Section 118-197, "Review of conditional use decisions", is hereby amended, as follows:

Sec. 118-197. – Reserved. Review of conditional use decisions.

- ~~(a) An applicant may appeal a decision of the planning and zoning director to the planning board pursuant to the requirements of Section 118-9, within 15 days of the date on which the director reached a decision on the conditional use application. The appeal shall be placed on the planning board agenda within 45 days of receipt of the appeal.~~
- ~~(b) In order to reverse, amend, or modify a conditional use decision of the planning and zoning director, the board shall find that the director did not do one of the following:
 - ~~(1) Provide procedural due process;~~
 - ~~(2) Observe essential requirements of law; or~~
 - ~~(3) Base his/her decision upon substantial competent evidence.~~~~

~~The board shall issue a written order setting forth its decision, which shall be promptly mailed to all parties to the appeal.~~

- ~~(c) An applicant, the city manager, on behalf of the administration, the owner of property located within 375 feet of the subject property, and in the case of a historic site or property located within a historic district, Miami Design Preservation League and Dade Heritage Trust may seek review of a conditional use decision of the planning board. Review of a conditional use decision of the planning board shall be to a court of competent jurisdiction by petition for writ of certiorari.~~
- ~~(d) Any review stays all work on the premises and all proceedings including a request for a building permit, certificate of completion or occupational license.~~

SECTION 9. That Chapter 118, "Administration And Review Procedures," Article VI "Design Review Board Procedures," at Section 118-258, "Building permit application", is hereby amended, as follows:

Sec. 118-258. - Building permit application.

* * *

- (c) Expiration of orders of the Design Review Board. No building permit, full building permit or phased development permit shall be issued for any plan subject to design review except in conformity with the approved plans. The applicant shall have up to 18 months, or such lesser time as may be specified by the board, from the date of the board meeting at which design review approval was granted to obtain a full building permit or a phased development permit. The foregoing 18-month time period includes the 20-day time period during which an appeal of the decision of the design review board may be filed, pursuant to the requirements of Section 118-9. If the applicant fails to obtain a full building permit or a phased development permit within 18 months, or such lesser time as may be specified by the board, of the board meeting date at which design review approval was granted, and/or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, all staff and board approvals shall be deemed null and void. Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the board, at its sole discretion, provided the applicant submits a request in writing to the planning director no later than 90 calendar days after the expiration of the original approval, showing good cause for such an extension. At the discretion of the planning director, an applicant may have up to 30 days (not to extend beyond 30 months from the date of original approval) to complete the building permit review process and obtain a full building permit, provided that within the time provided by the board to obtain a full building permit a valid full building permit application and plans have been filed with the building department, a building permit process number has been issued and the planning department has reviewed the plans and provided initial comments. ~~Notwithstanding the foregoing, in the event the original decision of the design review board is timely appealed, or there is an appeal of an approval from the board of adjustment and/or the planning board that is a requirement of the original decision of the design review board, and such appeal is filed within 20 days of the decision of the board of adjustment and/or the planning board, the applicant shall have 18 months, or such lesser time as may be specified by the design review board, from the date of final resolution of all administrative and/or court proceedings to obtain a full building permit or phased development permit. This tolling provision shall only be applicable to the original approval of the board and shall not apply to any subsequent requests for revisions or requests for extensions of time.~~

Please refer to 118-9 relating to appealed orders, and tolling.

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SECTION 10. That Chapter 118, "Administration And Review Procedures," Article VI "Design Review Board Procedures," at Section 118-260, "Special review procedure", is hereby amended, as follows:

Sec. 118-260. – Administrative Review Procedures~~Special review procedure~~.

- (a) The planning director or designated representative, shall have the authority to approve, approve with conditions or deny an application on behalf of the board, for the following:
- (1) Ground level additions to existing structures, not to exceed two stories in height, which are not substantially visible from the public right-of-way, any waterfront or public park. For those lots which are greater than 10,000 square feet, the floor area of the proposed addition may not exceed ten percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 5,000 square feet.
 - (2) Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.
 - (3) Facade and building alterations, renovations and restorations which are minor in nature.
 - (4) Minor demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements.
 - (5) Minor demolition and alterations to rear and secondary facades to accommodate utilities, refuse disposal and storage.
 - (6) Minor work associated with the public interiors of buildings and those interior portions of commercial structures which front a street or sidewalk.
 - (7) Minor work involving public improvements upon public rights-of-way and easements.
 - (8) Minor work which is associated with rehabilitations and additions to existing buildings, or the construction, repair, or rehabilitation of new or existing walls, at-grade parking lots, fences.

The director's decision shall be based upon the criteria listed in this article. The applicant may appeal a decision of the planning director to the design review board, pursuant to the procedural requirements of Section 118-9. ~~pursuant to all application and notice requirements. The applicant shall be responsible for providing and effectuating all noticing requirements, according to planning department procedures, as well as the duplication of all pertinent plans and exhibits for distribution to the board.~~

SECTION 11. That Chapter 118, "Administration And Review Procedures," Article VI "Design Review Board Procedures," at Section 118-261, "Rehearings", is hereby amended, as follows:

Sec. 118-261. Reserved. – Rehearings.

~~The design review board may hear a petition for rehearing by any person identified in section 118-262. The board may rehear a case, take additional testimony and either reaffirm their previous decision or issue a new decision reversing or modifying their previous decision. The petition for rehearing must demonstrate to the board that (i) there is newly discovered~~

~~evidence which will probably change the result if a rehearing is granted, or (ii) the board has overlooked or failed to consider something which renders the decision issued erroneous. A petition for rehearing must be filed on or before the fifteenth day after the date of rendition of the board's order. For purposes of this article, the "date of rendition" shall be the date upon which a signed, written order is filed with the board's clerk, and an order shall be deemed "filed" when a fully executed order is returned to, and is in the possession of, the clerk. An order will issue on any petition for rehearing. Notice of the rehearing shall be according to section 118-254 herein and shall be the responsibility of the person requesting the rehearing.~~

SECTION 12. That Chapter 118, "Administration And Review Procedures," Article VI "Design Review Board Procedures," at Section 118-262, "Review of design review decisions", is hereby amended, as follows:

Sec. 118-262. Reserved.—Review of design review decisions.

- ~~(a) The applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the design review board by the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission. For purposes of this section, "affected person" shall mean either (i) a person owning property within 375 feet of the applicant's project reviewed by the board, or (ii) a person that appeared before the design review board (directly or represented by counsel), and whose appearance is confirmed in the record of the design review board's public hearing(s) for such project. The review shall be based on the record of the hearing before the design review board, shall not be a de novo hearing, and no new, additional testimony shall be taken. The request shall be in writing, include all applicable fees, shall be by or on behalf of a named appellant(s), shall state the factual bases and legal argument in support of the appeal, and shall be submitted to the city clerk on or before the 20th day after the date of rendition of the board's order. However, in the event that a petition for rehearing is filed pursuant to section 118-261, the time for filing a request shall be on or before the 20th day after the date of rendition of the board's order on the petition. Upon receipt of the request, the city clerk shall place the request for review on the city commission agenda. The city commission shall set a date and time for a hearing. Notice of the review shall be according to section 118-254, except that there shall be no requirement for mailed notification regarding the subject review. A full verbatim transcript of all proceedings which are the subject of the appeal shall be provided by the party filing the petition, along with a written statement identifying those specific portions of the transcript upon which the party filing it will rely for purposes of the appeal. The verbatim transcript and written statement, or if represented by legal counsel, appropriate legal briefs, shall be filed no later than two weeks prior to the first scheduled public hearing to consider the appeal.~~
- ~~(b) In order to reverse, or remand for amendment, modification or rehearing, any decision of the design review board, the city commission shall find that the design review board did not do one of the following:~~
- ~~(1) Provide procedural due process;~~
 - ~~(2) Observe essential requirements of law; or~~
 - ~~(3) Base its decision upon substantial competent evidence.~~

~~In order to reverse, or remand a five-sevenths vote of the city commission is required. The city commission's decision shall be set forth in a written order which shall be promptly mailed to all parties to the review.~~

~~(c) Appeal from a decision of the city commission shall be to a court of competent jurisdiction by petition for writ of certiorari in accordance with the Florida Rules of Appellate Procedure.~~

SECTION 13. That Chapter 118, "Administration And Review Procedures," Article VI "Design Review Board Procedures," at Section 118-263, "Stay during rehearings/reviews/appeals", is hereby amended, as follows:

Sec. 118-263. Reserved – Stay during rehearings/reviews/appeals.

- ~~(a) The filing of a request for rehearing pursuant to section 118-261 or for review pursuant to section 118-262 and/or the initiation of court proceedings challenging or appealing a design review board decision pertaining to a project shall stay the issuance of any full building permit or phased development permit and the running of the required time period to obtain a full building permit or phased development permit for the project in question until the final resolution of all administrative and/or court proceedings.~~
- ~~(b) Notwithstanding subsection (a) of this section, nothing herein shall prevent the issuance of building permits or partial building permits necessary to prevent imminent peril to life, health or property, as determined by the building official.~~

SECTION 14. That Chapter 118, "Administration And Review Procedures," Article VII "Procedures for Variances," at Section 118-352, "Procedure", is hereby amended, as follows:

Sec. 118-352. – Reserved. Procedure.

- ~~(a) Filing period. Every application for a variance, an after the fact variance or an appeal from an administrative decision shall be filed within 30 days from the date of the refusal of a permit by, notice of violation, ruling, decision or determination of, the building official or other administrative official. If the applicant or appellant receives notice of the above by mail, then the applicant or appellant shall have an additional five days in which to apply for an appeal or after the fact variance.~~

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SECTION 15. That Chapter 118, "Administration And Review Procedures," Article VII "Procedures for Variances," at Section 118-358, "Appeal of variance decision", is hereby amended, as follows:

Sec. 118-358. Reserved. –Appeal of variance decision.

~~The decision of the board of adjustment, historic preservation board, or design review board, solely, with respect to variances shall be final. There shall be no further review of the variance except by resort to a court of competent jurisdiction by petition for writ of certiorari.~~

SECTION 16. That Chapter 118, "Administration And Review Procedures," Article IX "Nonconformances," at Section 118-395, "Repair and/or rehabilitation of nonconforming buildings and uses", is hereby amended, as follows:

Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.

* * *

(b) Nonconforming buildings.

* * *

- (2) Nonconforming buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official, shall be subject to the following conditions:

* * *

- e. Development regulations for buildings not located within a designated historic district and not an historic site.

* * *

3. For purposes of this subsection, the planning director, or designee shall make a determination as to whether a building is architecturally significant according to the following criteria:

- i. The subject structure is characteristic of a specific architectural style constructed in the city prior to 1965, including, but not limited to, vernacular, Mediterranean revival, art deco, streamline moderne, post-war modern, or variations thereof;
- ii. The exterior of the structure is recognizable as an example of its style and/or period, and its architectural design integrity has not been modified in an irreversible manner; and
- iii. Exterior architectural characteristics, features, or details of the subject structure remain intact.

A property owner may appeal any determination of the planning director, or designee relative to the architectural significance of a building constructed prior to 1965 to the design review board, in accordance with the requirements and procedures pursuant to the requirements of Section 118-9. ~~article VI~~ herein.

* * *

SECTION 17. That Chapter 118, "Administration And Review Procedures," Article IX "Nonconformances," at Section 118-397, "Existence of a nonconforming building or use", is hereby amended, as follows:

Sec. 118-397. - Existence of a nonconforming building or use.

- (a) The planning and zoning director shall make a determination as to the existence of a nonconforming use or building and in so doing may make use of affidavits and investigation

in addition to the data presented on the city's building card, occupational license or any other official record of the city.

- (b) The question as to whether a nonconforming use or building exists shall be a question of fact and in case of doubt or challenge raised to the determination made by the planning and zoning director, the question shall be decided by appeal to the board of adjustment pursuant to the requirements of Section 118-9, ~~after public notice and hearing and in accordance with the procedures set forth in section 118-134~~. In making the determination the board may require certain improvements that are necessary to insure that the nonconforming use or building will not have a negative impact on the neighborhood.

SECTION 18. That Chapter 118, "Administration And Review Procedures," Article X "Historic Preservation," at Section 118-532, "Proceedings before the historic preservation board", is hereby amended, as follows:

Sec. 118-532. - Proceedings before the historic preservation board.

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- (f) Timeframes to obtain a building permit. The applicant shall have up to 18 months, or such lesser time as may be specified by the board, from the date of the board meeting at which a certificate of appropriateness was issued to obtain a full building permit or a phased development permit. The foregoing 18-month time period, or such lesser time as may be specified by the board, includes the time period during which an appeal of the decision of the historic preservation board may be filed. If the applicant fails to obtain a full building permit or a phased development permit within 18 months, or such lesser time as may be specified by the board, of the board meeting date at which a certificate of appropriateness was granted and/or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, the certificate of appropriateness shall be deemed null and void. Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the historic preservation board, at its sole discretion, provided the applicant submits a request in writing to the planning department no later than 90 calendar days after the expiration of the original approval, setting forth good cause for such an extension. At the discretion of the planning director, an applicant may have up to 30 days (not to extend beyond 30 months from the date of original approval) to complete the building permit review process and obtain a full building permit, provided that within the time provided by the board to obtain a full building permit a valid full building permit application and plans have been filed with the building department, a building permit process number has been issued and the planning department has reviewed the plans and provided initial comments. ~~Notwithstanding the foregoing, in the event the original decision of the historic preservation board is timely appealed, or there is an appeal of an approval from the board of adjustment and/or the planning board that is a requirement of the original decision of the historic preservation board, and such appeal is filed within 20 days of the decision of the board of adjustment and/or the planning board, the applicant shall have 18 months, or such lesser time as may be specified by the historic preservation board, from the date of final resolution of all administrative and/or court proceedings to obtain a full building permit or phased development permit. This tolling provision shall only be applicable to the original approval of the board and shall not apply to any subsequent requests for revisions or requests for extensions of time.~~

Please refer to 118-9 relating to appealed orders, and tolling.

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SECTION 19. That Chapter 118, "Administration And Review Procedures," Article X "Historic Preservation," at Section 118-536, "Variances prohibited", is hereby amended, as follows:

Sec. 118-536. - Variances prohibited.

No variances shall be granted by the zoning board of adjustment from any of the provisions or requirements of this section; provided, however, the foregoing prohibition shall not limit or restrict an applicant's right to a rehearing or to appeal decisions of the historic preservation board, ~~as provided in this article.~~

SECTION 20. That Chapter 118, "Administration And Review Procedures," Article X "Historic Preservation," at Section 118-537, "Rehearings and appeals", is hereby amended, as follows:

Sec. 118-537. Reserved. - Rehearings and appeals.

(a) ~~Rehearings.~~

~~(1) The historic preservation board may consider a petition for rehearing by the applicant, the owner(s) of the subject property, the city manager, an affected person, Miami Design Preservation League, or Dade Heritage Trust. For purposes of this section, "affected person" shall mean either a person owning property within 375 feet of the applicant's project reviewed by the board, or a person that appeared before the board (directly or represented by counsel), and whose appearance is confirmed in the record of the board's public hearing(s) for such project. The petition for rehearing must demonstrate to the board that:~~

~~a. There is newly discovered evidence which is likely to be relevant to the decision of the board;~~

~~b. The board has overlooked or failed to consider something which renders the decision issued erroneous; or~~

~~c. The board's action or order:~~

~~1. Took place after May 11, 1995 and is actionable under the Bert J. Harris, Jr. Private Property Rights Protection Act, F.S. § 70.001 et seq., (referred to herein as the "Harris Act"); and~~

~~2. Inordinately burdens an existing use of the applicant's real property or a vested right to a specific use of the applicant's real property (referred to herein as a "Harris Act claim").~~

~~As used herein, the phrases "inordinate burden" or "inordinately burden," "existing use" and "vested right to a specific use" shall have same meanings ascribed to such phrases within the Harris Act.~~

~~(2) A petition for rehearing shall be in writing, shall be by or on behalf of a named appellant(s), and shall be submitted to the planning director on or before the fifteenth day after the date of rendition of the board's order; however, in cases where a condition imposed by the board is not followed by the applicant or is incapable of being done within this 15 day time frame, a petition for rehearing may be filed within 60 days of the date of rendition of the order imposing the condition. For purposes of this article, the~~

~~"date of rendition" shall be the date upon which a signed, written order is filed with the board's clerk, and an order shall be deemed "filed" when a fully executed order is returned to, and in the possession of, the clerk. In the event the petition is based on a Harris Act claim, the petition shall include the following documentation which shall be submitted no later than 15 days after the submission of the petition for rehearing:~~

- ~~a. A bona fide, valid appraisal supporting the claim of inordinate burden and demonstrating the loss, or expected loss, in fair market value to the real property as a result of the board's action;~~
 - ~~b. All factual data described in subsection 118-564(c); provided, however, in the event all or any portion of the factual data was available to the applicant prior to the conclusion of the public hearing before the historic preservation or joint design review board/historic preservation board and the applicant failed to furnish same to the board's staff as specified in subsection 118-564(c), then, the board may, in its discretion, deny the applicant's request to introduce such factual data;~~
 - ~~c. A report prepared by a licensed architect or engineer analyzing the financial implications of the requirements, conditions or restrictions imposed by the board on the property or development proposed by the applicant with respect to which the applicant is requesting a rehearing;~~
 - ~~d. A report prepared by a licensed architect or engineer analyzing alternative uses for the real property, if any;~~
 - ~~e. A report prepared by a licensed architect or engineer determining whether, as a result of the board action, the owner is permanently unable to attain the reasonable, investment-backed expectation for the existing use of the real property or a vested right to a specific use of the real property with respect to the real property as a whole, or that the property owner is left with existing or vested uses that are unreasonable; and~~
 - ~~f. A report prepared by a licensed architect or engineer addressing the feasibility, or lack of feasibility, of effectuating the board's requirements, conditions or restrictions and the impact of same on the existing use of the real property or a vested right to a specific use of the real property.~~
- ~~(3) In the event that any of the documentation required in subsection (a)(2) of this section is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file an affidavit stating the information which cannot be obtained and describing the reasons why such information cannot be obtained: provided, however, neither failure to retain a professional to prepare the required documentation nor the requirement to pay a fee for the preparation of such required documentation shall be sufficient to excuse an applicant from the requirements listed in subsection (a)(2) of this section. Evidence, testimony and information establishing, and/or disproving, the inordinate burden may be introduced by the applicant, the board's staff and city staff, the public, or any other party, and considered by the board.~~
- ~~(4) Notice requirements for a rehearing shall be identical to the notice requirements for the original hearing and shall be the responsibility of the party filing the petition. The board may rehear a case, take additional testimony and either reaffirm its previous decision or issue a new decision reversing or modifying the previous decision. If the petition is based on a Harris Act claim and the board concludes that the action or order inordinately burdens an existing use of the applicant's real property or a vested right to~~

~~a specific use of the applicant's real property, then the board shall amend or modify the action or order, in whole or in part, to eliminate the inordinate burden.~~

~~(b) Appeals.~~

~~(1) The applicant, the owner(s) of the subject property, the city manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the board's decision to a special master appointed by the city commission. For purposes of this section, "affected person" shall mean either a person owning property within 375 feet of the applicant's project reviewed by the board, or a person that appeared before the board (directly or represented by counsel), and whose appearance is confirmed in the record of the board's public hearing(s) for such project. The appeal shall be based on the record of the hearing before the board, shall not be a de novo hearing, and no new, additional testimony shall be taken. The appeal shall be in writing, shall be by or on behalf of a named appellant(s), and shall be submitted to the city clerk on or before the twentieth day after the date of rendition of the board's order. However, in the event that a petition for rehearing is filed pursuant to subsection (a), above, the time for filing an appeal to the special master shall be on or before the twentieth day after the date of rendition of the board's order regarding the petition. Within 30 days of receipt of the appeal, the city clerk shall submit the appeal to the special master who shall set a date and time for hearing the appeal. Notice requirements for the hearing shall be identical to the notice requirements for the original decision upon which the appeal is based, except that there shall be no requirement for mailed notification regarding the subject appeal. A full verbatim transcript of all proceedings which are the subject of the appeal shall be provided by the party filing the petition; said verbatim transcripts shall be filed no later than two weeks prior to the first scheduled public hearing to consider the appeal. The appeal shall require a fee as provided in appendix A.~~

~~(2) In order to reverse, amend, or modify any decision of the board, the special master shall find that the board did not do one of the following:~~

- ~~a. Provide procedural due process;~~
- ~~b. Observe essential requirements of law; or~~
- ~~c. Base its decision upon substantial competent evidence.~~

~~Within ten days of the date of the hearing the special master shall issue a written order setting forth his/her decision, which shall be promptly mailed to all parties to the appeal.~~

~~(3) Special masters appointed to hear appeals pursuant to this subsection (b) shall be attorneys who are members in good standing of the Florida Bar and have expertise in the area of historic preservation. Special masters shall serve terms of three years, provided however, that they may be removed without cause upon a majority vote of the city commission. Compensation for special masters shall be determined by the city commission.~~

~~(4) An applicant, the owner(s) of the subject property, the city manager, Miami Design Preservation League, Dade Heritage Trust or an affected person may appeal the decision to a court of competent jurisdiction by petition for writ of certiorari.~~

SECTION 21. That Chapter 118, "Administration And Review Procedures," Article X "Historic Preservation," Division 3 "Certificate of Appropriateness/Certificate of Dig/Certificate of

Appropriateness for Demolition,” at Section 118-563, “Review procedure”, is hereby amended, as follows:

Sec. 118-563. - Review procedure.

* * *

- (e) ~~The applicant, the owner(s) of the subject property, Miami Design Preservation League, Dade Heritage Trust or an aggrieved party may appeal a~~Any decision of the staff regarding subsections 118-563(d)(1) and subsection 118-563(d)(3), may be appealed to the historic preservation board pursuant to the requirements of Section 118-9. by filing a notice of appeal with the planning director within five business days of the date of posting of the staff decision. No permit shall be issued for work prior to expiration of the appeal period or final disposition of any appeal. ~~For purposes of this subsection, any individual or group referred to in subsection 118-503(a) shall be considered an aggrieved party. All appeals shall be considered by the historic preservation board at the next available meeting date, pursuant to all application and notice requirements. The party filing the appeal shall be responsible for providing and effectuating all noticing requirements, subject to planning department procedures, as well as the duplication of all pertinent plans and exhibits.~~

* * *

SECTION 22. That Chapter 118, “Administration And Review Procedures,” Article X “Historic Preservation,” Division 3 “Certificate of Appropriateness/Certificate of Dig/Certificate of Appropriateness for Demolition,” at Section 118-564, “Decisions on certificates of appropriateness”, is hereby amended, as follows:

Sec. 118-564. - Decisions on certificates of appropriateness.

* * *

- (11) Expiration of order of Board. The applicant shall have up to 18 months, or such lesser time as may be specified by the board, from the date of the board meeting at which a certificate of appropriateness for demolition was granted to obtain a full building permit or a phased development permit. The foregoing 18-month time period or such lesser time as may be specified by the board, includes the time period during which an appeal of the decision of the historic preservation board may be filed. If the applicant fails to obtain a full building permit or a phased development permit within 18 months, or such lesser time as may be specified by the board, of the board meeting date at which a certificate of appropriateness for demolition was granted and/or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, the certificate of appropriateness for demolition shall be deemed null and void. Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the historic preservation board, at its sole discretion, provided the applicant submits a request in writing to the planning department no later than 90 calendar days after the expiration of the original approval, setting forth good cause for such an extension. At the discretion of the planning director, an applicant may have up to 30 days (not to extend beyond 30 months from the date of original approval) to complete the building permit review process and obtain a full building permit, provided that within the time provided by the board to obtain a full building permit a valid full building permit application and plans have been filed with the building department, a building permit process number has been issued and the

planning department has reviewed the plans and provided initial comments. ~~Notwithstanding the foregoing, in the event the original decision of the historic preservation board with respect to a certificate of appropriateness for demolition is timely appealed, or there is an appeal of an approval from the board of adjustment and/or the planning board that is a requirement of the original decision of the historic preservation board, and such appeal is filed within 20 days of the decision of the board of adjustment and/or the planning board, the applicant shall have 18 months, or such lesser time as may be specified by the board, from the date of final resolution of all administrative and/or court proceedings to obtain a full building permit. This tolling provision shall only be applicable to the original approval of the board and shall not apply to any subsequent requests for revisions or requests for extensions of time.~~

Please refer to 118-9 relating to appealed orders, and tolling.

SECTION 23. That Chapter 118, "Administration And Review Procedures," Article X "Historic Preservation," Division 3 "Certificate of Appropriateness/Certificate of Dig/Certificate of Appropriateness for Demolition," at Section 118-565, "Special review procedure", is hereby amended, as follows:

* * *

Sec. 118-565. - Special review procedure.

For minor exterior structural repairs, alterations and improvements, associated with single-family homes located within designated historic districts, that are visible from a public way, or work that affects the exterior of the building associated with rehabilitations and additions to existing buildings, the planning director, or designee, shall have the authority to approve, approve with conditions or deny an application on behalf of the board. The director's decision shall be based upon the criteria listed in this article. Any appeal of the decision of the planning director shall be filed pursuant to the requirements of Section 118-9. - Rehearing and appeal procedures. ~~considered by the board at the next available regular meeting date.~~

SECTION 24. That Chapter 118, "Administration And Review Procedures," Article X "Historic Preservation," Division 5 "Single Family Ad Valorem Tax Exemption," at Section 118-609, "Completion of work", is hereby amended, as follows:

Sec. 118-609. - Completion of work.

* * *

- (e) If the planning director, or designee determines that the work as complete is not in compliance with the plans approved pursuant to city commission approval of the tax exemption, the applicant shall be advised that the final request for review of completed work has been denied. Such denial shall be in writing and provide a written summary of the reasons for the determination, including recommendations to the applicant concerning the changes to the proposed work necessary to bring it into compliance with the approved plans. The applicant may file an appeal of the decision of the planning director, or designee, pursuant to the requirements of Section 118-9. within 15 days of such decision. ~~The appeal shall be in writing and shall be to the historic preservation board and shall set forth the factual and legal bases for the appeal.~~

SECTION 25. That Chapter 142 "Zoning Districts and Regulations." Article II "District Regulations, Division 2 "RS-1, RS-2, RS-3, RS-4 Single Family Residential Districts" at Section 142-108, Provisions for the demolition of single-family homes located outside of historic districts," is hereby established, as follows:

* * *

- (b) Appeals. ~~The applicant or any property owner within 375 feet of the subject single-family home may appeal.~~ The decision of the planning director, or designee, which shall bear the presumption of correctness, pertaining to the architectural significance of a single-family home, may be appealed to the design review board, pursuant to the requirements of Section 118-9. within ten days of the rendering of such decision. No demolition permit may be issued within any appeal period, and if an appeal is filed, while the appeal is pending. ~~The appeal shall be in writing, shall set forth the factual, technical, architectural, historic and legal bases for the appeal, and shall be to the design review board (DRB).~~

* * *

SECTION 26. CODIFICATION.

It is the intention of the Mayor and city commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 27. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 28. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 29. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this ____ day of _____, 2015.

Philip Levine, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

10/9/15

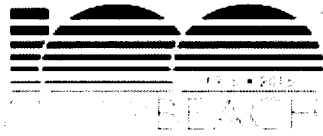
Date

First Reading:
Second Reading:

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes removed language

[Sponsored by Commissioner Deede Weithorn]



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

OFFICE OF THE CITY ATTORNEY
RAUL J. AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

**TO: MAYOR PHILIP LEVINE
MEMBERS OF THE CITY COMMISSION
CITY MANAGER JIMMY MORALES**

FROM: RAUL J. AGUILA *Raul Aguil*
CITY ATTORNEY

DATE: OCTOBER 14, 2015

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 5 ENTITLED "CAMPAIGN FINANCE REFORM," BY ADDING THERETO SECTION 2-491 ENTITLED "DISCLOSURE OF SOLICITATION", REQUIRING ANY CANDIDATE OR CAMPAIGN COMMITTEE OF A CANDIDATE FOR THE OFFICES OF MAYOR OR COMMISSIONER OR MEMBER OF THE CITY COMMISSION WHO, ON BEHALF OF A POLITICAL COMMITTEE WHICH SUPPORTS OR OPPOSES CANDIDATES FOR ELECTED CITY OFFICE, SOLICITS CAMPAIGN CONTRIBUTIONS FOR CITY ELECTED OFFICE FROM A VENDOR, LOBBYIST ON A PROCUREMENT ISSUE, REAL ESTATE DEVELOPER AND/OR LOBBYIST ON A REAL ESTATE DEVELOPMENT ISSUE, TO DISCLOSE THE DATE OF SOLICITATION AS WELL AS NAME AND CONTRIBUTION AMOUNTS OF ANY INDIVIDUAL WHO WAS SOLICITED, DISCLOSURE TO BE FILED IN CITY CLERK'S OFFICE.

Pursuant to the request of Commissioner Deede Weithorn, the attached ordinance has been drafted for the purpose of amending the City's Campaign Finance laws so as to include therein a requirement for public disclosure by the City's elected officials and candidates for said office and their campaign committees of any solicitation by them of vendors, real estate developers, and their respective lobbyists (as said terms are defined in City Code sections 2-487 through 2-490) for campaign contributions, as otherwise permitted by the City Code.

This amendment to the City's ethics laws serves to augment the City's intent of good government, and will once more place the City of Miami Beach at the forefront of local ethics legislation. The attached ordinance is thus ready for City Commission review and deliberation.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 5 ENTITLED "CAMPAIGN FINANCE REFORM," BY ADDING THERETO SECTION 2-491 ENTITLED "DISCLOSURE OF SOLICITATION", REQUIRING ANY CANDIDATE OR CAMPAIGN COMMITTEE OF A CANDIDATE FOR THE OFFICES OF MAYOR OR COMMISSIONER OR MEMBER OF THE CITY COMMISSION WHO, ON BEHALF OF A POLITICAL COMMITTEE WHICH SUPPORTS OR OPPOSES CANDIDATES FOR ELECTED CITY OFFICE, SOLICITS CAMPAIGN CONTRIBUTIONS FOR CITY ELECTED OFFICE FROM A VENDOR, LOBBYIST ON A PROCUREMENT ISSUE, REAL ESTATE DEVELOPER AND/OR LOBBYIST ON A REAL ESTATE DEVELOPMENT ISSUE, TO DISCLOSE THE DATE OF SOLICITATION AS WELL AS NAME AND CONTRIBUTION AMOUNTS OF ANY INDIVIDUAL WHO WAS SOLICITED, DISCLOSURE TO BE FILED IN CITY CLERK'S OFFICE.

WHEREAS, in *Citizens United*¹, the Supreme Court of the United States endorsed disclosure reporting requirements for political speech as a matter of sound public policy, finding that: "The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages"²; and

WHEREAS, the Supreme Court has further affirmed that disclosure requirements appear to be the least restrictive means of "curbing the evils of campaign ignorance and corruption..."; and

WHEREAS, pursuant to concerns expressed at recent meetings of the Miami Beach City Commission and among City residents and other members of the public questioning certain City Commission members' solicitation of City vendors, the City Commission has determined that public disclosure of such solicitation and the solicitation of other classes of donors that present the greatest threat of actual or perceived quid pro quo (i.e., lobbyists for procurement matters, real estate developers, and lobbyists on real estate development issues³) by the City's elected officials and candidates for said office (which solicitation is otherwise permitted under existing law) is vital to address concerns of perceived undue influence and quid pro quo, thus reinforcing the confidence of the public in our municipal system of representative democracy.

¹ *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).

² *Id.* at 371.

³ Term definitions at Subsection B(1), hereinbelow.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Miami Beach City Code Chapter 2, Article VII, Division 5 entitled "Campaign Finance Reform," is hereby amended by adding the following City Code Section 2-491 entitled "Disclosure of Solicitation" to read as follows:
Sec. 2-491. Disclosure of Solicitation.

A. Disclosure.

Any candidate or campaign committee of a candidate for the offices of mayor or commissioner, or member of the City Commission, who solicits campaign contributions for a City elected office from a vendor, lobbyist on a procurement issue, real estate developer and/or lobbyist on a real estate development issue, on behalf of a political committee which supports or opposes candidates for City office shall disclose, on a form created by the City Clerk's Office, the date of solicitation, and the name and contribution amounts of any individual who was solicited for such contribution. The form shall be filed in the City Clerk's Office for public inspection within 5 days from the date in which the subject solicitation occurred.

B. Definitions.

(1) The terms "vendor", "lobbyist on a procurement issue", "real estate developer" or "lobbyist on a real estate development issue", shall have the meaning ascribed to such terms in Chapter 2, Article VII, Division 5 of the Miami Beach City Code.

(2) "Candidate" shall have the meaning ascribed to such term in Florida Statutes, Section 97.021(5), as amended and supplemented.

(3) "Contribution" shall have the meaning ascribed to such term in Florida Statutes, Chapter 106, as amended and supplemented.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be

made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2015.

PASSED and ADOPTED this _____ day of _____, 2015.

ATTEST:

Philip Levine
Mayor

Rafael E. Granado
City Clerk

Requested by Commissioner Deede Weithorn

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Paul G. ...
City Attorney

10/9/15
Date



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

OFFICE OF THE CITY ATTORNEY
RAUL J. AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

TO: MAYOR PHILIP LEVINE
MEMBERS OF THE CITY COMMISSION
CITY MANAGER JIMMY MORALES

FROM: RAUL J. AGUILA *Raul Aguil*
CITY ATTORNEY

DATE: OCTOBER 14, 2015

SUBJECT: INCREASING STRINGENCY OF CITY OF MIAMI BEACH ETHICS LAWS BY AMENDING CITY CODE CHAPTER 2, ARTICLE VII "STANDARDS OF CONDUCT", DIVISION 5 ENTITLED "CAMPAIGN FINANCE REFORM," BY ADDING THERETO SECTION 2-491 ENTITLED "PROHIBITED LOBBYING BY CAMPAIGN CONSULTANTS," PROHIBITING CAMPAIGN CONSULTANTS AND CERTAIN AFFILIATED PERSONS OR ENTITIES FROM LOBBYING CITY COMMISSION FOR 12 MONTHS SUBSEQUENT TO SWEARING IN OF SUBJECT ELECTED OFFICIAL(S), ESTABLISHING DEFINITIONS, AND LIMITED EXEMPTION; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Pursuant to the request of Commissioner Deede Weithorn, the attached ordinance has been drafted for the purpose of amending the City's Campaign Finance laws so as to include therein a city law prohibiting campaign consultants from lobbying the City Commission.

This amendment to the City's ethics laws serves to augment the City's intent of good government, and will once more place the City of Miami Beach at the forefront of local ethics legislation. The attached ordinance is thus ready for City Commission review and deliberation.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 5 ENTITLED "CAMPAIGN FINANCE REFORM," BY ADDING THERETO SECTION 2-491 ENTITLED "PROHIBITED LOBBYING BY CAMPAIGN CONSULTANTS," PROHIBITING CAMPAIGN CONSULTANTS AND CERTAIN AFFILIATED PERSONS OR ENTITIES FROM LOBBYING CITY COMMISSION FOR 12 MONTHS SUBSEQUENT TO SWEARING IN OF SUBJECT ELECTED OFFICIAL(S), ESTABLISHING DEFINITIONS, AND LIMITED EXEMPTION; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, corruption and the appearance of corruption in the form of campaign consultants exploiting their influence with City elected officials on behalf of private interests may erode public confidence in the fairness and impartiality of City governmental decisions; and

WHEREAS, the City of Miami Beach has a paramount interest in preventing corruption or the appearance of corruption which could result in such erosion of public confidence; and

WHEREAS, prohibitions on campaign consultants lobbying former clients/members of the City Commission will protect public confidence in the electoral and governmental processes. It is thus the purpose and intent of the people of the City of Miami Beach in enacting this Ordinance to prohibit campaign consultants from exploiting or appearing to exploit their influence with City elected officials on behalf of private interests.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Miami Beach City Code Chapter 2, Article VII, Division 5 entitled "Campaign Finance Reform," is hereby amended by adding the following City Code section 2-491 entitled "Prohibited Lobbying by Campaign Consultants" to read as follows:

Sec. 2-491. Prohibited Lobbying by Campaign Consultants.

A. Prohibition.

No campaign consultant shall lobby the City Commission for a period of 12 months following the swearing in of any elected official(s) for whom the campaign consultant provided campaign consulting services within the past election cycle.

B. Definitions.

(a) "Campaign consultant" means any person or entity that receives or is promised economic consideration in exchange for campaign consulting services to a candidate for elected office in the City of Miami Beach.

(1) "Campaign consultant" shall include any individual who has an ownership interest of 10% or greater in the campaign consultant, and any employee of the campaign consultant, except as otherwise excepted below.

(2) "Campaign consultant" shall not include:

i) any vendor for a campaign whose primary responsibility is to supply goods or services for a campaign.

ii) an employee of a campaign consultant whose sole duties are primarily clerical; or

iii) an employee of a campaign consultant who did not personally provide campaign consulting services.

(b) "Campaign consulting services" means primary responsibility for campaign management or campaign strategy.

(c) "Campaign management" means conducting, coordinating or supervising a campaign to elect a candidate.

(d) "Campaign strategy" means formulation of plans for the election of a candidate.

(e) "Candidate" shall have the meaning ascribed to such term in Florida Statutes, section 97.021(5), as amended and supplemented.

(f) "Economic consideration" means any payments, fees, commissions, gifts, or anything else of value received directly or indirectly as consideration for campaign consulting services. The term "economic consideration" does not include reimbursements for out of pocket expenses.

(g) "Past election cycle" means the subject immediately preceding City of Miami Beach General Election/Special Election held for the purpose of electing a member of the City Commission.

(h) "Lobby" for purposes of this Code Section shall mean the act of seeking to encourage the passage, defeat or modification of any ordinance, resolution, action or decision of any member of the City Commission.

C. Limited Exemption.

A campaign consultant who has within the past election cycle provided campaign consulting services to an incumbent member of the City Commission, and has entered into a lobbying contract prior to the effective date of the ordinance creating this code section, the term of which lobbying contract includes the subject proscribed 12

month period established in Subsection A above, is exempt from the proscription herein with limited regard to that subject lobbying contract.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2015.

PASSED and ADOPTED this _____ day of _____, 2015.

ATTEST:

Philip Levine
Mayor

Rafael E. Granado
City Clerk

Requested by Commissioner Deede Weithorn

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**


City Attorney

10/9/15
Date

Condensed Title:

A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PERTAINING TO THE RANKING OF FIRMS, PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 2015-213-KB FOR THE PREPARATION OF ENVIRONMENTAL ANALYSIS FOR MIAMI BEACH TRANSIT PROJECTS INCLUDING THE BEACH CORRIDOR TRANSIT CONNECTION PROJECT AND RELATED SERVICES.

Key Intended Outcome Supported:

Ensure Comprehensive Mobility Addressing All Modes Throughout The City/Enhance Pedestrian Safety Universally.

Supporting Data (Surveys, Environmental Scan, etc: N/A

Item Summary/Recommendation:

The Administration issued Request for Qualifications (RFQ) No. 2015-213-KB for the preparation of environmental analysis for Miami Beach transit projects including the Beach Corridor Transit Connection Project and related services. On July 10, 2015, the RFQ was issued. A voluntary pre-proposal conference to provide information to the proposers submitting a response was held on August 19, 2015. RFQ responses were due and received on September 11, 2015. The City received a total of four (4) proposals. The City received proposals from the following firms: Kimley-Horn & Associates, Inc., Parsons Brinckerhoff, Inc., HNTB Corporation, and Atkins North America, Inc.

The Evaluation Committee appointed by the City Manager convened on October 1, 2015, to consider proposals received and interview the proposers. The Committee was provided an overview of the project, information relative to the City's Cone of Silence Ordinance and the Government Sunshine Law. The Committee was also provided with general information on the scope of services, references and a copy of each proposal. The Committee ranked the proposers in accordance with the RFQ Evaluation Criteria.

After reviewing all the submissions and the results of the evaluation process, the City Manager recommends that the Mayor and City Commission authorize the Administration to enter into negotiations with the top ranked proposer, Kimley-Horn and Associates, Inc. Should negotiations fail, the City Manager recommends that the Administration be authorized to enter into negotiations with the second ranked proposer, Parsons Brinckerhoff, Inc. Should negotiations fail with the second ranked proposer, the City Manager recommends that the Administration be authorized to enter into negotiations with the third ranked proposer, HNTB Corporation.

RECOMMENDATION

ADOPT THE RESOLUTION.

Advisory Board Recommendation:

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Financial Information:

Source of Funds:	Amount	Account
1		The cost of the related services, determined upon successful negotiations, are subject to funds availability approved through the City's budgeting process.
2		
OBPI	Total	

Financial Impact Summary:**City Clerk's Office Legislative Tracking:**

Alex Denis, Jose Gonzalez

Sign-Offs:

Department Director	Assistant City Manager	City Manager
JRG <i>[Signature]</i> AD <i>[Signature]</i>	KGB _____ MT _____	JLM <i>[Signature]</i>

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: October 14, 2015

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PERTAINING TO THE RANKING OF FIRMS, PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 2015-213-KB FOR THE PREPARATION OF ENVIRONMENTAL ANALYSIS FOR MIAMI BEACH TRANSIT PROJECTS INCLUDING THE BEACH CORRIDOR TRANSIT CONNECTION PROJECT AND RELATED SERVICES, AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH KIMLEY-HORN AND ASSOCIATES, INC., AS THE TOP RANKED PROPOSER; AND SHOULD THE ADMINISTRATION NOT BE SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH PARSONS BRINCKERHOFF, INC., AS THE SECOND HIGHEST RANKED PROPOSER; AND SHOULD THE ADMINISTRATION NOT BE SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH PARSONS BRINCKERHOFF, INC., AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH HNTB CORPORATION, AS THE THIRD HIGHEST RANKED PROPOSER; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT, UPON CONCLUSION OF SUCCESSFUL NEGOTIATIONS BY THE ADMINISTRATION.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

KEY INTENDED OUTCOME SUPPORTED

Ensure Comprehensive Mobility Addressing All Modes Throughout The City/Enhance Pedestrian Safety Universally.

FUNDING

The cost of the related services, determined upon successful negotiations, are subject to funds availability approved through the City's budgeting process.

BACKGROUND

The City of Miami Beach, Florida is located on a barrier island between the Biscayne Bay and the Atlantic Ocean, just east of the City of Miami, Florida. It is connected to the City of Miami on the mainland via four causeways. The City is the predominant tourist destination of South Florida. The City has a population of approximately 87,779, in addition to the millions of tourists that visit each year.

For over two years, the City has been working in partnership with the Miami-Dade Metropolitan Planning Organization (MPO), Miami-Dade Transit (MDT), Florida Department of Transportation (FDOT), and the City of Miami as part of the ongoing Beach Corridor Transit Connection Study (formerly known as the Baylink Corridor Study) studying ways to improve mass transit connectivity between the City of Miami Beach and Downtown Miami.

The Study commenced in October 2013 and focuses on re-evaluating the “Locally Preferred Alternative” (resulting from the 2004 Baylink Corridor Study), which proposed a light rail transit/modern streetcar connection between Miami Beach and Downtown Miami, via the MacArthur Causeway. A Technical Advisory Committee (TAC) comprised of staff from various municipal and transportation agencies and a Policy Executive Committee (PEC) comprised of elected officials from Miami-Dade County, the City of Miami Beach, and the City of Miami was established as an advisory committee of the MPO to assist the Study consultant team in making key milestone decisions through the Study process.

At this time, the Study recommendations focus on a Light Rail Transit (LRT)/modern streetcar system connecting Miami Beach and Downtown Miami via the MacArthur Causeway. Several new and emerging catenary-free or off-wire technologies for LRT are being evaluated, including ground-embedded rail and on-board battery storage. The recommended alignment within Miami Beach consists initially of the MacArthur Causeway, 5th Street, and Washington Avenue (in order to establish a direct connection to the Miami Beach Convention Center). A second phase would include an alignment along Alton Road and 17th Street which would operate as a local route solely within Miami Beach and complement the initial regional cross-bay route to Downtown Miami. The study contemplates future route expansion along Collins Avenue to the Julia Tuttle Causeway, connecting to Midtown Miami. In order to provide efficient and effective mass transit service, the Project will operate on exclusive rights-of-way and not in mixed traffic.

At the April 29, 2015 Commission meeting, the City Commission adopted a Resolution expressing support for expediting the South Beach Component of the Beach Corridor Transit Connection Project which proposes light rail transit/modern streetcar connectivity between the cities of Miami Beach and Miami. Further, the Resolution directed the Administration to work with the local transportation partners to expedite the South Beach Component and authorized the Administration to procure any environmental studies required to advance the South Beach component.

The South Beach Component of the Beach Corridor Transit Connection Project will include, but not be limited to, the following transportation corridors: SR A1A/5th Street from SR 907/Alton Road to Washington Avenue; Washington Avenue from SR A1A/5th Street to Dade Boulevard; Dade Boulevard from Meridian Avenue to 23rd Street; and Convention Center Drive.

At the PEC meeting on May 4, 2015, the Committee passed a Resolution approving policy directives as to how to proceed with the Baylink Project connecting Miami and Miami Beach. Pursuant to that Resolution, in an effort to expedite at least portions of the Baylink project, the cities of Miami and Miami Beach may, in a manner consistent with State law, proceed with their own environmental analysis.

RFQ PROCESS

On July 8, 2015, the City Commission approved to issue the Request for Qualifications (RFQ) No. 2015-213-KB for the preparation of environmental analysis for Miami Beach transit projects including the Beach Corridor Transit Connection Project and related services. On

July 10, 2015, the RFQ was issued. A voluntary pre-proposal conference to provide information to the proposers submitting a response was held on August 19, 2015. RFQ responses were due and received on September 11, 2015. The City received a total of four (4) proposals. The City received proposals from the following firms: Kimley-Horn & Associates, Inc., Parsons Brinckerhoff, Inc., HNTB Corporation, and Atkins North America, Inc.

On September 11, 2015, the City Manager, via Letter to Commission (LTC) No. 357-2015, appointed an Evaluation Committee (the "Committee"), consisting of the following individuals:

- Jesus Guerra, Executive Director, Miami-Dade Metropolitan Planning Organization
- Alice Bravo, Director, Miami-Dade Transit
- Harold Desdunes, Director of Transportation Development, Florida Department of Transportation District 6
- Madeleine Romanello, Miami Beach Chamber of Commerce and member of the City's Transportation, Parking, Bicycle and Pedestrian Facilities Committee
- Jose Gonzalez, Transportation Director, City of Miami Beach

The City Manager also considered the following individuals as alternates:

- Wilson Fernandez, Transportation Systems Manager, Miami-Dade Metropolitan Planning Organization
- Albert Hernandez, Assistant Director, Miami-Dade Transit
- Aileen Boucle, Intermodal Systems Development Manager, Florida Department of Transportation District 6
- Seth Wasserman, Member of the City's Transportation, Parking, Bicycle and Pedestrian Facilities Committee
- Josiel Ferrer-Diaz, Transportation Manager, City of Miami Beach

The Committee convened on October 1, 2015 to consider proposals received and interview the proposers. The Committee was provided an overview of the project, information relative to the City's Cone of Silence Ordinance and the Government Sunshine Law. The Committee was also provided with general information on the scope of services, references, and a copy of each proposal. Additionally, the Committee engaged in a question and answer session after the presentation of each proposer. The Committee was instructed to score and rank each proposal pursuant to the evaluation criteria established in the RFQ. The evaluation process resulted in the ranking of proposers as indicated in the table below.

RFQ 2015-213-KB ENVIRONMENTAL ANALYSIS FOR MIAMI BEACH TRANSIT PROJECTS INCLUDING THE BEACH CORRIDOR TRANSIT CONNECTION PROJECT AND RELATED SERVICES	Wilson Fernandez		Madeleine Romanello		Albert Hernandez		Harold Desdunes		Jose Gonzalez		LOW AGGREGATE TOTALS	Rank
	Score	Ranking	Score	Ranking	Score	Ranking	Score	Ranking	Score	Ranking		
Atkins North America, Inc.	80	4	70	4	88	2	93	4	94	2	16	4
HNTB Corporation	81	3	80	3	84	4	95	1	84	4	15	3
Kimley-Horn & Assoc. Inc.	88	1	100	1	92	1	94	2	90	3	8	1
Parsons Brinckerhoff, Inc.	83	2	95	2	87	3	94	2	95	1	10	2

MANAGER'S DUE DILIGENCE & RECOMMENDATION

After reviewing all the submissions and the results of the evaluation process, the City Manager recommends that the Mayor and City Commission authorize the Administration to enter into negotiations with the top ranked proposer, Kimley-Horn and Associates, Inc. Should negotiations fail, the City Manager recommends that the Administration be authorized to enter into negotiations with the second ranked proposer, Parsons Brinckerhoff, Inc. Should negotiations fail with the second ranked proposer, the City Manager recommends that the

Administration be authorized to enter into negotiations with the third ranked proposer, HNTB Corporation.

CONCLUSION

The Administration recommends that the Mayor and City Commission approve the resolution accepting the recommendation of the City Manager pertaining to the ranking of proposals, pursuant to Request for Qualifications No. 2015-213-KB (the RFQ), For Preparation Of Environmental Analysis For Miami Beach Transit Projects Including The Beach Corridor Transit Connection Project And Related Services.

JLM/MT/KGB/JRG/AD

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PERTAINING TO THE RANKING OF FIRMS, PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 2015-213-KB FOR THE PREPARATION OF ENVIRONMENTAL ANALYSIS FOR MIAMI BEACH TRANSIT PROJECTS INCLUDING THE BEACH CORRIDOR TRANSIT CONNECTION PROJECT AND RELATED SERVICES, AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH KIMLEY-HORN AND ASSOCIATES, INC., AS THE TOP RANKED PROPOSER; AND SHOULD THE ADMINISTRATION NOT BE SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH PARSONS BRINCKERHOFF, INC., AS THE SECOND HIGHEST RANKED PROPOSER; AND SHOULD THE ADMINISTRATION NOT BE SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH PARSONS BRINCKERHOFF, INC., AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH HNTB CORPORATION, AS THE THIRD HIGHEST RANKED PROPOSER; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT, UPON CONCLUSION OF SUCCESSFUL NEGOTIATIONS BY THE ADMINISTRATION.

WHEREAS, Request for Qualifications No. 2015-213-KB (the RFQ) was issued on July 19, 2015, with an opening date of September 11, 2015; and

WHEREAS, a voluntary pre-proposal meeting was held on August 19, 2015; and

WHEREAS, the City received a total of four (4) proposals; and

WHEREAS, on September 11, 2015, the City Manager, via Letter to Commission (LTC) No. 357-2015, appointed an Evaluation Committee (the "Committee"), consisting of the following individuals:

- Jesus Guerra, Executive Director, Miami-Dade Metropolitan Planning Organization
- Alice Bravo, Director, Miami-Dade Transit
- Harold Desdunes, Director of Transportation Development, Florida Department of Transportation District 6
- Madeleine Romanello, Miami Beach Chamber of Commerce and member of the City's Transportation, Parking, Bicycle and Pedestrian Facilities Committee
- Jose Gonzalez, Transportation Director, City of Miami Beach

The City Manager also considered the following individuals as alternates:

- Wilson Fernandez, Transportation Systems Manager, Miami-Dade Metropolitan Planning Organization
- Albert Hernandez, Assistant Director, Miami-Dade Transit
- Aileen Boucle, Intermodal Systems Development Manager, Florida Department of Transportation District 6
- Seth Wasserman, Member of the City's Transportation, Parking, Bicycle and Pedestrian Facilities Committee
- Josiel Ferrer-Diaz, Transportation Manager, City of Miami Beach

WHEREAS, the Committee convened on October 1, 2015 to consider the proposals received; and

WHEREAS, the Committee was provided an overview of the project; information relative to the City's Cone of Silence Ordinance and the Government Sunshine Law; general information on the scope of services, references, and a copy of each proposal; and engaged in a question and answer session after the presentation of each proposer; and

WHEREAS, the Committee was instructed to score and rank each proposal pursuant to the evaluation criteria established in the RFQ; and

WHEREAS, the Committee's ranking was as follows: Kimley-Horn and Associates, Inc., top-ranked, Parsons Brinckerhoff, Inc., second highest ranked, and HNTB Corporation, third highest ranked; and

WHEREAS, after reviewing all the submissions and the results of the evaluation process, the City Manager recommends that the Mayor and City Commission authorize the Administration to enter into negotiations with the top ranked proposer, Kimley-Horn and Associates, Inc. Should negotiations fail, the City Manager recommends that the Administration be authorized to enter into negotiations with the second ranked proposer, Parsons Brinckerhoff, Inc. Should negotiations fail with the second ranked proposer, the City Manager recommends that the Administration be authorized to enter into negotiations with the third ranked proposer, HNTB Corporation.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby accept the recommendation of the City Manager pertaining to the ranking of proposals, pursuant to Request for Qualifications No. 2015-213-KB (the RFQ), For Preparation Of Environmental Analysis For Miami Beach Transit Projects Including The Beach Corridor Transit Connection Project And Related Services; authorize the Administration to enter into negotiations with Kimley-Horn and Associates, Inc.; and should the Administration not be successful in negotiating an agreement with Kimley-Horn and Associates, Inc., authorize the Administration to enter into negotiations with Parsons Brinckerhoff, Inc.; should the Administration not be successful in negotiating an agreement with Parsons Brinckerhoff, Inc., authorize the Administration to enter into negotiations with HNTB Corporation; and further authorize the Mayor and City Clerk to execute an agreement upon conclusion of successful negotiations by the Administration.

PASSED AND ADOPTED this _____ day of _____ 2015.


ATTEST:

Rafael E. Granado, City Clerk

Philip Levine, Mayor

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

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 10/6/15

City Attorney *RAF* Date

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